



City of Abilene City Council Agenda

Weldon Hurt, Mayor Pro-tem
Shane Price, Council Member
Lynn Beard, Council Member
Robert Hanna, City Manager

Anthony Williams, Mayor

Donna Albus, Council Member
Kyle McAlister, Council Member
Travis Craver, Council Member
Stanley Smith, City Attorney
Shawna Atkinson, City Secretary

Notice is hereby given of a meeting of the City Council of City of Abilene to be held on June 23, 2022, at 8:30 a.m., at the Abilene Public Library, South Branch, Mall of Abilene, 4310 Buffalo Gap Road, Abilene, Texas, for the purpose of considering the following agenda items. All agenda items are subject to action. The City Council reserves the right to meet in a closed session on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

CALL TO ORDER

INVOCATION

1. Deputy Mayor Pro-tem Donna Albus

PLEDGE TO THE UNITED STATES FLAG AND THE TEXAS FLAG

PRESENTATIONS, RECOGNITIONS, PROCLAMATIONS AND ANNOUNCEMENTS

CONSENT AGENDA AND PUBLIC COMMENTS

All items listed in the Consent Agenda are considered routine by the City Council and will be enacted by one motion. There will be no separate discussion or presentation of these items unless otherwise requested by a Council Member. In the event one or more Council Members remove an item from the consent Agenda for separate discussion or presentation, the item or items removed will be considered in numerical order as part of the Regular Agenda and shall include a public hearing.

After the Council Members have requested any item on the consent Agenda be considered separately, the public comment period will be held. The public comment section of the consent agenda allows members of the public to present any ideas or information to the City Council and staff, and also allows for public comment on the consent agenda items not otherwise pulled for separate consideration. Neither the City Council nor staff will engage in discussion with the public during the public comments unless the item is listed on the Council agenda.

Members of the public will have a total time limit of three (3) minutes to speak during the public comments section.

2. **Minutes:** Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Regular Meeting Held on June 9, 2022 **(Shawna Atkinson)**

3. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Appointing Members to Various Boards and Commissions per the City Charter (**Shawna Atkinson**)
 - Keep Abilene Beautiful
 - Senior Citizens Advisory Board
4. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Approving the Financing By Tarrant County Cultural Education Finance Corporation of Health Facilities Located Within the City of Abilene, Texas (**Mike Rains**)
5. **Resolution:** Receive a Report, Hold a Discussion and Take Action Authorizing the City Manager to enter into an agreement with Texas Department of Transportation for the S 14th St Walkability Project (**Max Johnson**)
6. **Ordinance (First Reading):** Receive a Report, Hold a Discussion and Take Action on Amending Chapter 18, "MOTOR VEHICLES AND TRAFFIC," ARTICLE XIII, "SCHEDULES," SECTION 18-286, "Decreased speed limits-School zones," of the Abilene Municipal Code to Add School Traffic Zones at Wylie East Elementary (**Max Johnson**)
7. **Resolution:** Receive a Report, Hold a Discussion and Take Action on awarding the bid for the Second Pressure Plane Supply Line - Phase 2 (**Rodney Taylor**)
8. **Ordinance (First Reading):** Receive a Report, Hold a Discussion and Take Action on an Ordinance amending Chapter 32 "Utilities", Article VI "Water Conservation Plan", of the Abilene Municipal Code by amending Sections 32-140, 32-141, 32-142, 32-143, 32-144, 32-145, and 32-146, as set out below, providing a severability clause, and declaring a penalty (**Rodney Taylor**)
9. **Ordinance (First Reading) Z-2022-12:** Receive a Report, Hold a Discussion and Take Action on A Request From Griffith Lake Estates Represented By Jacob & Martin, LLC To Change Zoning Of Approximately 27.2 Acres From Agricultural Open (AO) And Residential Multi-Family (MF) To Residential Multi-Family (MF) And General Commercial (GC) (**Tim Littlejohn**)
10. **Ordinance (First Reading) Z-2022-13:** Receive a Report, Hold a Discussion and Take Action on A Request From PB 6950, LLC Represented By Jacob & Martin, LLC To Change The Zoning Of Approximately 36.5 Acres From Residential Multi-Family (MF), Office (O), And Agricultural Open (AO) To General Retail (GR), Residential Multi-Family (MF) And General Commercial (GC) (**Tim Littlejohn**)
11. **Ordinance (First Reading) CUP-2022-04:** Receive a Report, Hold a Discussion and Take Action on A Request From Windmill Circle Apartments LLC (Represented By Enprotec/Hibbs & Todd, Engineering Consultants) For Approval Of A Conditional Use Permit Allowing Multi-Family Residential Buildings On Approximately 15 Acres Of Now-Vacant Land In A General Retail (GR) District At 28 Thru 36 Windmill Circle And At 5601 Memorial Drive In South Abilene. (**Tim Littlejohn**)

REGULAR AGENDA - ORDINANCES AND PUBLIC HEARINGS - RESOLUTIONS

12. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Authorizing the City Manager to enter into a contract with Bontke Brothers Construction Company, Inc. for the Cedar Creek Development Trail Project (**Lesli Andrews**)
13. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action

on Authorizing the City Manager to enter into a Memorandum of Agreement between the City of Abilene and the Abilene Youth Sports Authority for the Lease of Real Property and Development of a Youth Sports Agreement (Lesli Andrews)

EXECUTIVE SESSION

14. **The City Council of the City of Abilene reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed below, as authorized by the noted Texas Government Code Sections:**

A. 551.071 (Consultation with Attorney)

1. Robert Steven Reitz v. City of Abilene, Texas, et al., Case No. 1:16-cv-00181-BL; In the U.S. District Court, Northern District of Texas, Abilene Division, filed October 10, 2016
2. City of Abilene v. 3118 South 22nd Street, Abilene, Texas, et al.; Cause No. 11968-D, In the 350th Judicial District Court, Taylor County, Texas; filed October 11, 2019
3. Chandler Brooks v. Taylor County, et al.; Civil Action No. 1:20-cv-00049, In the United States District Court, Northern District of Texas, Abilene Division; filed March 5, 2020
4. John Doe v. Robert Hanna, Individually and as City Manager; Cause No. 28078-B; In the 104th Judicial District Court, Taylor County, Texas; filed July 7, 2020
5. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-20-004598, In the 53rd Judicial District Court, Travis County, Texas; filed September 1, 2020
6. Sharra Sampson v. City of Abilene; Cause No. 8144-B, In the 104th Judicial District Court, Taylor County, Texas; filed September 14, 2020
7. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-20-007028, In the 459th Judicial District Court, Travis County, Texas; filed November 18, 2020
8. Natasha Jones v. City of Abilene, Texas; EEOC Charge of Discrimination, 450-2020-06446; filed September 15, 2020
9. Alton H. Smith, Jr. and Alicia Malorie Smith v. City of Abilene, Texas; Cause No. 51055-A, In the 42nd Judicial District Court, Taylor County, Texas; filed March 11, 2021
10. Steve Van Horne, et al. v. City of Abilene, et al.; Cause No. 12530-D, In the 350th Judicial District Court, Taylor County, Texas; filed September 7, 2021
11. Cockrell Investment Partners, L.P. v. Middle Pecos Groundwater Conservation District, et al.; Cause No. P827783CV, in the 83rd Judicial District Court, Pecos County, Texas; filed September 11, 2020
12. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-21-006299, In the 250th Judicial District Court, Travis County, Texas; filed October 20, 2021
13. Samuel Hightower v. City of Abilene, Appeal of Temporary Suspension to Hearing Examiner, filed December 28, 2021
14. Zach Williams v. City of Abilene, Appeal of Temporary Suspension to Hearing Examiner, filed December 28, 2021
15. Allstate Fire and Casualty Insurance Company as Subrogee of Del Davis v. City of Abilene; Case No. SC22-11166J11, In the Justice Court, Precinct 1, Place 1, Taylor County, Texas, filed March 30, 2022
16. Library Collection Development Policy

B. 551.072 (Deliberations about Real Property)

C. 551.073 (Deliberations about Gifts and Donations)

D. 551.074 (Personnel Matters)

1. City Council may consider appointment, employment, compensation, reassignment, duties, discipline, or dismissal of public officers or employees, City Manager, City Attorney, Municipal Court Judge, City Secretary, and City Board and Commission Members

2. City of Abilene Boards & Commissions May be Discussed, as needed for (re)appointment

E. 551.076 (Deliberations about Security Devices)

F. 551.087 (Business Prospect/Economic Development)

1. 101 Cypress

2. Trail Ridge Subdivision

RECONVENE

REGULAR AGENDA

15. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approving a Chapter 380 Agreement with Abilene Improvement Corporation for 101 Cypress Street **(Robert Hanna)**

ADJOURNMENT

In compliance with the Americans with Disabilities Act, the City of Abilene will provide for reasonable accommodations for persons attending City Council meetings. To better serve you, requests should be received 48 hours prior to the meetings. Please call 325-676-6208.

CERTIFICATION

I hereby certify the above meeting notice was posted on the bulletin board at the City Hall of the City of Abilene, Texas, on the 17th day of June, 2022, at 4:00 p.m.

Shawna Atkinson, TRMC, CMC
City Secretary



**City Council
Agenda Memo**

City Council Meeting Date: 6/23/2022

TO: Honorable Mayor & Members of City Council

FROM: Shawna Atkinson, City Secretary

SUBJECT: 2. Minutes: Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Regular Meeting Held on June 9, 2022
(*Shawna Atkinson*)

GENERAL INFORMATION

Approval of the Minutes from the Regular Meeting Held on June 9, 2022

SPECIAL CONSIDERATIONS

None.

FUNDING/FISCAL IMPACT

None

STAFF RECOMMENDATION

Approval of the Minutes

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

1. 06-09-2022 Minutes - Regular - Morning

CITY COUNCIL MEETING

June 9, 2022 at 8:30 a.m.

CITY COUNCIL OF THE CITY OF ABILENE, TEXAS SOUTH BRANCH LIBRARY

The City Council of the City of Abilene, Texas met in Regular Session on June 9, 2022, at 8:30 a.m. at the South Branch Library, Mall of Abilene, 4310 Buffalo Gap Road. Mayor Anthony Williams was present and presiding, along with Mayor Pro-tem Weldon Hurt, Deputy Mayor Pro-tem Donna Albus, and Councilmembers Shane Price, Lynn Beard, Kyle McAlister and Travis Craver. Also present were City Manager Robert Hanna, City Attorney Stanley Smith, and City Secretary Shawna Atkinson.

Mayor Anthony Williams delivered the invocation.

Will and Nellie Tusing, both from Wylie ISD, led the Pledge of Allegiance to the Flag of the United States of America and State of Texas Flag.

PRESENTATIONS, RECOGNITIONS, PROCLAMATIONS, ANNOUNCEMENTS

Mayor Williams made an announcement in regards to homeless Veterans and chronic homelessness in Abilene, and went over the accomplishments the Homeless Network has achieved. Jenny Goode and several others from the West Texas Homeless Coalition spoke on the topic as well.

Mayor Williams made an announcement on the upcoming Parks & Recreation Master Plan Open House on June 16th at 5:30 p.m. and encouraged everyone to attend.

- Proclamations:
 - Elder Abuse Awareness Month – accepted by Adult Protective Services.
 - Waste & Recycling Workers Week – accepted by Public Works Director Max Johnson and Solid Waste staff members.
 - Ride to Work Day – accepted by E’Lisa Smetana and Ride to Work Day organizers.

PRESENTATION OF CONSENT AGENDA

The Consent Agenda consisted of items 4-10. Item 8 was pulled for individual consideration.

PUBLIC COMMENTS

Mayor Williams opened the public comment period. The following addressed the city council:

- David Swart – spoke about item #7 and asked for an explanation as to why we are paying for a new roof on a facility we just rehabbed.
- Steve Justice – spoke about the Cedar Creek Waterway bid and stated that his business, Justice Construction was the lowest bidder, however, they were not awarded the bid and he questioned why he was not chosen.
- Robert McCabe and Perry Covington with Abilene Hope Haven – spoke about the lack of affordable housing in town and that most landlords are not willing to accept HUD vouchers. They asked about an incentive program for builders to develop low income housing.
- Lowell Johnson – spoke about item #11. He lives in that addition, and is not in objection to the item, but stated that if they are wanting to replat into multiple lots then he would be concerned.

With no other speakers coming forward, the public comment period was closed.

After Mr. Justice's comments, Council and staff discussed the bidding process for item #8 at length and why Justice Construction wasn't chosen for the project. Council would like to table the item to have a chance to look at all the bids that came in.

CONSENT AGENDA

Councilmember Beard moved to approve the consent agenda, consisting of items 4-7 and 9-10. Councilmember Craver seconded the motion. Motion carried.

AYES (7): Mayor Williams, Mayor Pro-tem Hurt, Deputy Mayor Pro-tem Albus, and Councilmembers Price, Beard, McAlister, and Craver

NAYS (0): None

4. Minutes: Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Regular Meeting Held on May 26, 2022

5. Resolution: Receive a Report, Hold a Discussion and Take Action on Appointing Members to Various Boards and Commissions per the City Charter
[ASSIGNED RESOLUTION NO. 90-2022]

Board	Term End Date
<i>Abilene-Taylor County 9-1-1 District Board</i>	
Michael Rice (Nomination Only - Board Votes)	
<i>Abilene-Taylor County Public Health Advisory Board</i>	
Dr. Leslie Hutchins [New]	November 2024 [unexpired term]
<i>Citizens Advisory Board for People with Disabilities</i>	
Rodney Young [New]	October 2023 [unexpired term]
<i>Parks & Recreation Board</i>	
Tony Pallaerez [New]	May 2025
Tanell Smith [New]	May 2025
<i>Street Maintenance Advisory & Appeals Board</i>	
David Todd [New] [Chair]	March 2023 [unexpired term]
Matthew Lubin [Reappointment]	May 2024

6. Resolution: Receive a Report, Hold a Discussion and Take Action on Accepting Permanent Sculptures Donated to the City of Abilene
[ASSIGNED RESOLUTION NO. 91-2022]
7. Resolution: Receive a Report, Hold a Discussion and Take Action on Approving the City Manager to Enter into a Contract with AMKO, Inc. for the Construction Documents, Bidding, and Construction Administration of a Roof Project for the Police Department, Municipal Court, and Water Office Complex
[ASSIGNED RESOLUTION NO. 92-2022]
9. Resolution: Receive a Report, Hold a Discussion and Take Action on Approving a Change Order for City Facility Improvements (Festival Park District) with DPR Construction
[ASSIGNED RESOLUTION NO. 94-2022]
10. Resolution: Receive a Report, Hold a Discussion and Take Action on the Acceptance of the DEAAG grant funds for the Dyess Air Force Improved and Expanded Fiber and 5-G Infrastructure Project
[ASSIGNED RESOLUTION NO. 95-2022]

ITEM PULLED FOR INDIVIDUAL CONSIDERATION

8. Resolution: Receive a Report, Hold a Discussion and Take Action on Authorizing the City Manager to enter into a contract with Bontke Brothers Construction Company, Inc. for the Cedar Creek Development Trail Project
[ASSIGNED RESOLUTION NO. 93-2022]

Mayor Williams opened the public hearing. With no speakers coming forward, the public comment period was closed.

Mayor Williams moved to table the item. Councilmember Price seconded the motion. Motion carried.

AYES (7): Mayor Williams, Mayor Pro-tem Hurt, Deputy Mayor Pro-tem Albus, and Councilmembers Price, Beard, McAlister, and Craver

NAYS (0): None

REGULAR AGENDA

Mayor Williams announced that item #16 would be considered at the beginning of the Regular Agenda.

16. Discussion: Receive a Report, Hold a Discussion and Public Hearing on the Collection Development Policy of the Abilene Public Library

Julee Hatton, Library Director, presented the item. Ms. Hatton went over the mission statement for the Abilene Public Library, the statistics on the collection, a brief overview of the collection development policy, the library advisory board and their responsibilities, the process for selecting materials for the library, the evaluation process for collections, and the process for reconsideration of materials purchased.

Council and staff discussed the policies at length.

Mayor Williams opened the public hearing. The following addressed the City Council:

- Jason Hernandez Marshall – stated he is against removing LGBTQ books from the library.
- Jane Bering – spoke about the library’s unattended children’s policy and stated that parents need to be responsible for their own children. Ms. Bering wants the policy to stay the same.
- Ann Sasse – did not speak, but indicated she is in favor of a new policy.
- Dr. Bruce Davis – did not speak, and his comment card was unclear as to his opinions.
- Kenneth Smith – did not speak, but indicated he is in opposition of banning books.
- James Wagstaff – stated he is against removing LGBTQ books from the library and that these books can help children feel like they belong.
- Sean Carasso – stated he is against removing LGBTQ books from the library and hopes Abilene will become a sanctuary city for freedom instead.
- Elizabeth Powell – gave her opinion as a mental health therapist, and stated that she is against removing LGBTQ books from the library.
- Sam Hatton – spoke in support of the library. Mr. Hatton stated that he thinks the proper steps should have been followed that have been outlined in the library policies, and that it is ultimately a parental issue in the end.
- Cierra Villarreal – spoke about the commitment to inclusivity that libraries have, and that she is against removing LGBTQ books from the library.

- Mikaela Allmand – did not speak, but indicated she had questions on proper vetting procedures for book selection before they go onto shelves for specific ages.
- Alex Russell – stated she is against removing LGBTQ books from the library, and to keep the freedom to read in place.
- Erika Batton – would like all books on sexuality taken out of the children’s section and placed into a more appropriate section. Urged the Library Advisory Board to consider this at their next meeting.
- Amanda Estevez – stated she is in favor of moving books on sexuality out of the children’s section and into a more appropriate section, and questioned where the line is drawn for appropriateness.
- Francisca Rodriguez – spoke about a book her children found in the library’s children’s section and that she was forced to talk to her 5-year-old about topics out of their league because of it.
- Charles Byrn – expressed his concerns on the books in question and that he does not feel certain members of the Friends of the Library align with the values of the community.
- Ryan Goodwin – stated he is in favor of moving books on sexuality out of the children’s section and into a more appropriate section.
- David Swart – spoke about first amendment rights and the library card policy. He stated that nowhere in the policy does it state how long the cards are issued for. Mr. Swart also spoke about odd parts of the library policy.
- Patrick Batton – spoke about diversity and loving one another, and that he doesn’t want the books banned, but would like to see the Library Advisory Board have to approve the books.
- David Rodriguez – questioned why a publishing company gets to determine age appropriateness, stated that the descriptions on books are not enough to determine content, spoke about a book called “Anti-Racist Baby”, and that he would like the library to reevaluate where these books go.
- Greg Wilson – stated that he thinks the current policy is a good policy, in particular the freedom to read, and hopes we will continue to follow these policies as a community that values democracy and freedom.
- Eric Bangs – stated that they aren’t trying to ban books, just to have them put into another section, since it’s a parent’s responsibility to control what goes into a child’s brain, not the library’s.

With no other speakers coming forward, the public hearing was closed.

Mayor Williams recessed into a break from 10:38 a.m. to 10:45 a.m.

Council discussed various options and outcomes for the library policy. Mayor Williams asked for Councilmembers Albus and Craver to sit down with staff and the Library Advisory Board, and bring back options at a later date that would be appropriate for our community.

11. Ordinance (Final Reading) Z-2022-09: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on A Request From Gregory And Marcia Straughn Within The Subdivision Known As The Hillview Addition To Change Zoning Of Approximately 3.906 Acres From Agricultural Open (AO) To Residential Single-Family District-12 (RS-12)
[ASSIGNED ORDINANCE NO. 21-2022]

Councilmember Price had a conflict of interest on this item and abstained from voting. A conflict of Interest Affidavit was filled out before the meeting and filed with the City Secretary’s office.

Tim Littlejohn, Director of Planning & Development Services, presented the item. Adoption of the item would rezone the above referenced property from Agriculture Open (AO) to Residential Single-Family District-12 (RS-12).

Mayor Williams opened the public hearing. With no speakers coming forward, the public hearing was closed.

Councilmember Beard moved to approve the item as presented. Deputy Mayor Pro-tem Albus seconded the motion; motion carried.

AYES (6): Mayor Williams, Mayor Pro-tem Hurt, Deputy Mayor Pro-tem Albus, and Councilmembers Beard, McAlister, and Craver

NAYS (0): None

ABSTAIN (1): Councilmember Price

12. Ordinance (Final Reading) Z-2022-10: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on A Request From The Collective Owners Of Property Within The Subdivision Known As The Green Acres Addition To Change The Zoning Of .909 Acres From General Retail (GR) To A Planned Development District (PD-176) on the 2100 Block Of N Willis St., Abilene, Taylor County, Texas
[ASSIGNED ORDINANCE NO. 22-2022]

Tim Littlejohn, Director of Planning & Development Services, presented the item. Adoption of the item would rezone the above referenced property from General Retail (GR) to a Planned Development District (PD-176).

Mayor Williams opened the public hearing. The following addressed the council:

- BJ Prichard, agent for the applicant – availed himself for questions from Council.

With no other speakers coming forward, the public hearing was closed.

Mayor Pro-tem Hurt moved to approve the item as presented. Councilmember Craver seconded the motion; motion carried.

AYES (7): Mayor Williams, Mayor Pro-tem Hurt, Deputy Mayor Pro-tem Albus, and Councilmembers Price, Beard, McAlister, and Craver

NAYS (0): None

13. Ordinance (Final Reading) Z-2022-11: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on A Request From Patrick Cowen To Change Zoning From Heavy Industrial (HI) To Heavy Commercial (HC) On Approximately 3 Acres At The 4200 Block Of Burl Harris Dr. Abilene In Taylor County, Texas
[ASSIGNED ORDINANCE NO. 23-2022]

Tim Littlejohn, Director of Planning & Development Services, presented the item. Adoption of the item would rezone the above referenced property from Heavy Industrial (HI) to Heavy Commercial (HC).

Mayor Williams opened the public hearing. With no speakers coming forward, the public hearing was closed.

Councilmember Price moved to approve the item as presented. Mayor Pro-tem Hurt seconded the motion; motion carried.

AYES (7): Mayor Williams, Mayor Pro-tem Hurt, Deputy Mayor Pro-tem Albus, and Councilmembers Price, Beard, McAlister, and Craver

NAYS (0): None

14. Ordinance (Final Reading) CUP-2022-02: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on A Request From The Collective Owners Of Property Within The Subdivision Known As Original Town Of Abilene To Allow The Use Of Automobile Repair And Maintenance Services-Minor Within The Central Business (CB) District, 633 Oak Street, Abilene, Taylor County, Texas
[ASSIGNED ORDINANCE NO. 24-2022]

Tim Littlejohn, Director of Planning & Development Services, presented the item. Adoption of the item would approve a conditional use permit to allow for automobile repair and maintenance services within the Central Business District at the above referenced property.

Mayor Williams opened the public hearing. With no speakers coming forward, the public hearing was closed.

Councilmember McAlister moved to approve the item as presented. Deputy Mayor Pro-tem Albus seconded the motion; motion carried.

AYES (7): Mayor Williams, Mayor Pro-tem Hurt, Deputy Mayor Pro-tem Albus, and Councilmembers Price, Beard, McAlister, and Craver
NAYS (0): None

15. Ordinance (Final Reading) CUP-2022-05: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on A Request From The Collective Owners Of Property Within The Subdivision Known As Original Town Of Abilene To Allow The Use Of Wholesaling & Storage-Indoor Within The Central Business (CB) District, 149 Oak Street, Abilene, Taylor County, Texas
[ASSIGNED ORDINANCE NO. 25-2022]

Tim Littlejohn, Director of Planning & Development Services, presented the item. Adoption of the item would approve a conditional use permit to allow the use of wholesaling and indoor storage within the Central Business District at the above referenced property.

Mayor Williams opened the public hearing. With no speakers coming forward, the public hearing was closed.

Councilmember Craver moved to approve the item as presented. Councilmember Price seconded the motion; motion carried.

AYES (7): Mayor Williams, Mayor Pro-tem Hurt, Deputy Mayor Pro-tem Albus, and Councilmembers Price, Beard, McAlister, and Craver
NAYS (0): None

EXECUTIVE SESSION

Mayor Williams recessed into Executive Session at 11:06 a.m., pursuant to the following of the Open Meetings Act, with the following issues discussed during this session, as listed on the agenda and authorized by the noted Texas Government Code Section:

- 17. D. 551.071 (Consultation with Attorney)
 - 1. Library Policy (agenda item #16)
- 17. F. 551.072 (Deliberations about Real Property)
 - 1. Allen Ridge Hotel
 - 2. Allen Ridge Walking Trail
 - 3. Allen Ridge Subdivision

The Executive Session ended at 11:22 a.m. and reconvened to Open Session. Mayor Williams reported no votes or action were taken in Executive Session.

ADJOURNMENT

There being no further business, the meeting adjourned at 11:22 a.m.

Shawna Atkinson
City Secretary

Anthony Williams
Mayor

Minutes approved on: _____



**City Council
Agenda Memo**

City Council Meeting Date: 6/23/2022

TO: Honorable Mayor & Members of City Council

FROM: Shawna Atkinson, City Secretary

SUBJECT: 3.

**Resolution: Receive a Report, Hold a Discussion and Take Action on
Appointing Members to Various Boards and Commissions per the City Charter
(Shawna Atkinson)**

- **Keep Abilene Beautiful**
- **Senior Citizens Advisory Board**

GENERAL INFORMATION

The item provides for reappointment of new members as well as new members to certain boards and commissions.

SPECIAL CONSIDERATIONS

Member terms vary per board and commission and are outlined in Exhibit A of the resolution.

FUNDING/FISCAL IMPACT

No cost consideration to the city.

STAFF RECOMMENDATION

(Re)Appointment

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

1. B&C Resolution
2. Exhibit A
3. B&C Presentation Slide

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, APPOINTING MEMBERS TO VARIOUS BOARDS AND COMMISSIONS AS REQUIRED BY THE CHARTER OF THE CITY OF ABILENE AND STATUTES OF THE STATE OF TEXAS

WHEREAS, the Charter of the City of Abilene and the Statutes of the State of Texas require that certain Boards and Commissions be established with a portion of the memberships thereof to be filled by appointment each year; and

WHEREAS, the City Council is of the opinion that the following members should be appointed to the designated Boards and Commissions, and has requested the Mayor to appoint same with the approval of the Council.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That the list of Members is attached hereto as Exhibit A, shall be in all things, approved.

PART 2: That this resolution shall take effect immediately from and after its passage.

PASSED this 23rd day of June, 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

RESOLUTION NO. _____
EXHIBIT "A"

Board	Term End Date
<i>Keep Abilene Beautiful</i>	
Rebekah Raux-Sumrall [New]	September 2025
<i>Senior Citizens Advisory Board</i>	
Monroe Nevells [Reappointment]	May 2024
Maxine Williams [Reappointment]	May 2024
Dorothy Drones [Reappointment]	May 2024
Leroy King [Reappointment]	May 2024
Johnny Whisenhunt [Reappointment]	May 2024

Resolution: Appointing Member(s) to various Boards and Commissions per the City Charter

- Keep Abilene Beautiful
- Senior Citizens Advisory Board





**City Council
Agenda Memo**

City Council Meeting Date: 6/23/2022

TO: Robert Hanna, City Manager

FROM: Mike Rains, Finance Director

SUBJECT: 4. Resolution: Receive a Report, Hold a Discussion and Take Action on Approving the Financing By Tarrant County Cultural Education Finance Corporation of Health Facilities Located Within the City of Abilene, Texas (Mike Rains)

GENERAL INFORMATION

The Tarrant County Cultural Education Facilities Finance Corporation is proposing to issue \$180,000,000 in bonds in order to finance certain health facilities for Wesley Court, LLC, Craig Amarillo, LLC and Meadow Lake, LLC each a Texas nonprofit limited liability company.

The bonds will be issued to finance the acquisition, renovation and construction at Wesley Court Senior Living in Abilene not to exceed \$125,000,000; at The Craig Senior Living in Amarillo not to exceed \$125,000,000; and at Meadow Lake Senior Living in Tyler not to exceed \$125,000,000.

Because a portion of the project is located in the City of Abilene, Section 147(f) of the Internal Revenue Code requires that the approval of the City of Abilene (or the highest elected official of the City of Abilene) be obtained to the financing by the issuer after the holding of a public hearing. A combined public hearing was held via teleconference following reasonable public notice at 10:00 a.m. on June 6, 2022.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

The approval in no way imposes any payment or other obligations on the City of Abilene in

connection with the financing or the Project. The city of Abilene will have no liability with respect to the proposed Bonds.

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Resolution Approving Financing for TCCEFFC
2. TCCEFFC Bond Issuance Memo
3. Powerpoint - Resolution Approving Financing by Tarrant County Cultural Education Facilities Finance Corporation

RESOLUTION NO. _____

**RESOLUTION APPROVING THE FINANCING BY
TARRANT COUNTY CULTURAL EDUCATION FACILITIES FINANCE CORPORATION
OF HEALTH FACILITIES LOCATED WITHIN
THE CITY OF ABILENE, TEXAS**

WHEREAS, the Cultural Education Facilities Finance Corporation Act, Chapter 337, Texas Local Government Code, as amended (the "Act"), authorizes and empowers Tarrant County Cultural Education Facilities Finance Corporation (the "Issuer") to issue revenue bonds or notes on behalf of Tarrant County, Texas (the "Issuing Unit") to finance the cost of health facilities found by the Board of Directors of the Issuer to be required, necessary or convenient for health care, research and education, any one or more, within the State of Texas and in furtherance of the public purposes of the Act; and

WHEREAS, Wesley Court, LLC, Craig Amarillo, LLC and Meadow Lake, LLC (collectively, the "Borrowers"), each a Texas nonprofit limited liability company, have requested the Issuer to issue its Revenue Bonds (CMW Obligated Group) (the "Bonds"), in one or more series, in an aggregate principal amount not to exceed \$180,000,000. The sole member of each of the Obligors will be an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"). The Bonds will be issued to finance the acquisition, renovation, and construction of 1) a community consisting of 81 independent living units, 52 independent living cottages, 19 assisted living units, and 30 skilled nursing units, including the construction of additional independent living cottages, located at 2617 Antilley Road, Abilene, Texas 79606, known as Wesley Court Senior Living ("Wesley Court") to be owned by Wesley Court, LLC, 2) a community consisting of 65 independent living villas, 108 independent living units, 40 assisted living units, and 64 skilled nursing units located at 5500 SW 9th Avenue, Amarillo, Texas 79106, known as The Craig Senior Living ("The Craig") to be owned by Craig Amarillo, LLC, and 3) a community consisting of 41 independent living cottages, 80 independent living units, 20 assisted living units, 34 memory care units, and 30 skilled nursing units located at 16044 CR 165, Tyler, Texas, 75703, known as Meadow Lake Senior Living ("Meadow Lake," and together with Wesley Court and the Craig, the "Project") to be owned by Meadow Lake, LLC. The proceeds of the Bonds are expected to be expended as follows: not to exceed \$125,000,000 at Wesley Court, not to exceed \$125,000,000 at The Craig, and not to exceed \$125,000,000 at Meadow Lake; and

WHEREAS, pursuant to Section 147(f) of the Code, the Issuer has caused to be published a notice of a public hearing (the "TEFRA Notice") with respect to the issuance of the Bonds and the financing of the Project, and held such hearing after reasonable notice on June 6, 2022 (the "TEFRA Hearing"); and

WHEREAS, pursuant to the provisions of Section 147(f) of the Code, the City Council of the City of Abilene, Texas (the "City"), after the TEFRA Hearing, must approve issuance of the Bonds by the Issuer to enable the Bonds to qualify as tax-exempt obligations under the Code;

NOT THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

SECTION 1. The City Council, solely for the purposes of Section 147(f) of the Code, hereby approves the issuance of the Bonds by the Issuer to finance the Project for the benefit of the Borrower.

SECTION 2. The foregoing approval is given in accordance with the provisions of Section 147(f) of the Code and for no other purposes and is not to be construed as an undertaking by the City. The

Bonds shall not constitute a liability, indebtedness, or an obligation of the City nor shall any of the assets of the City be pledged to the payment of the Bonds.

SECTION 3. This resolution shall take effect immediately from and after its passage and it is accordingly so resolved.

ADOPTED this 23rd day of June, 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney



June 8, 2022

Members of the City Council
City of Abilene
555 Walnut Street
Abilene, Texas 79604

Re: Consent by the City of Abilene to financing by Tarrant County Cultural Education
Facilities Finance Corporation

Ladies and Gentlemen:

Tarrant County Cultural Education Facilities Finance Corporation (the "Issuer") proposes, on behalf of Tarrant County, Texas, to issue bonds in a maximum principal amount of \$180,000,000 (the "Bonds") pursuant to the Cultural Education Facilities Finance Corporation Act, Chapter 337, Texas Local Government Code, as amended (the "Act") to provide funds to finance certain health facilities for Wesley Court, LLC, Craig Amarillo, LLC and Meadow Lake, LLC (collectively, the "Borrowers"), each a Texas nonprofit limited liability company. The sole member of each of the Borrowers will be an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code").

The Bonds will be issued to finance the acquisition, renovation, and construction of 1) a community consisting of 81 independent living units, 52 independent living cottages, 19 assisted living units, and 30 skilled nursing units, including the construction of additional independent living cottages, located at 2617 Antilley Road, Abilene, Texas 79606, known as Wesley Court Senior Living ("Wesley Court") to be owned by Wesley Court, LLC, 2) a community consisting of 65 independent living villas, 108 independent living units, 40 assisted living units, and 64 skilled nursing units located at 5500 SW 9th Avenue, Amarillo, Texas 79106, known as The Craig Senior Living ("The Craig") to be owned by Craig Amarillo, LLC, and 3) a community consisting of 41 independent living cottages, 80 independent living units, 20 assisted living units, 34 memory care units, and 30 skilled nursing units located at 16044 CR 165, Tyler, Texas, 75703, known as Meadow Lake Senior Living ("Meadow Lake," and together with Wesley Court and The Craig, the "Project") to be owned by Meadow Lake, LLC. The proceeds of the Bonds are expected to be expended as follows: not to exceed \$125,000,000 at Wesley Court, not to exceed \$125,000,000 at The Craig, and not to exceed \$125,000,000 at Meadow Lake.

Because a portion of the Project is located in the City of Abilene, Section 147(f) of the Code requires that the approval of the City of Abilene (or the highest elected official of the City of Abilene) be obtained to the financing by the Issuer after the holding of a public hearing. A combined public hearing was held via teleconference following reasonable public notice at 10:00 a.m. on June 6, 2022, and a copy of the minutes of the public hearing is enclosed as Exhibit A.



For your convenience, I have enclosed as Exhibit B a proposed form of a consent resolution. This approval is required solely for the purposes of satisfying the requirements of the Code and to enable the Issuer to proceed with the proposed financing of the Project with the Bonds. This approval in no way imposes any payment or other obligations on the City of Abilene in connection with the financing or the Project. The City of Abilene will have no liability with respect to the proposed Bonds.

Therefore, on behalf of the Issuer and the Borrower we respectfully request that consideration of adoption of the enclosed consent resolution be placed on the agenda for the next available meeting of the City Council of Abilene, Texas, and that the City Council approve and adopt such resolution. Upon such approval, I would also very much appreciate it if you would email a scan or return an original version of the executed resolution to me at the contact information below.

Please do not hesitate to contact me at (214) 754-9266 or abenavides@mphlegal.com should you have any questions or comments. Thank you very much for your assistance.

Sincerely,

McCall, Parkhurst & Horton L.L.P.

Abraham "Abe" Benavides

AAB:bc
Enclosures

Contact:
Abe Benavides
(214) 754-9266
abenavides@mphlegal.com
McCall, Parkhurst & Horton L.L.P.
717 North Harwood, Suite 900
Dallas, Texas 75201

EXHIBIT A
MINUTES OF PUBLIC HEARING

MINUTES OF PUBLIC HEARING
Tarrant County Cultural Education Facilities Finance Corporation

Re: Tarrant County Cultural Education Facilities Finance Corporation Revenue Bonds (CMW Obligated Group Project) Series 2022

The undersigned, Abraham Benavides, designated Hearing Officer of Tarrant County Cultural Education Facilities Finance Corporation (the "Issuer"), the Issuer of the above referenced Bonds (the "Bonds"), called the Public Hearing of the Issuer held on Monday, June 6, 2022 to order at 10:00 a.m. CT via teleconference.

I declared that a Public Hearing, required under section 147(f) of the Internal Revenue Code of 1986 was open for purposes of discussing the Bonds and the project to be financed with the proceeds of the Bonds (the "Project").

I declared that the required notice of the Public Hearing for the Bonds and the Project was published in the ABILENE REPORTER-NEWS, being a newspaper of general circulation in the City of Abilene, Texas, as evidenced by an Affidavit of Publication attached hereto as Exhibit A.

I proceeded to hold the Public Hearing. A member of the public joined the teleconference for the Public Hearing and the comments made with respect to the Project and the Bonds are attached hereto as Exhibit B.

After sufficient time was given for all present to make their comments with respect to the Bonds and the Project, I declared the Public Hearing closed at 10:15 a.m. CT.

Dated: June 6, 2022



Abraham Benavides, Hearing Officer
Tarrant County Cultural Education Facilities
Finance Corporation

EXHIBIT A

AFFIDAVIT OF PUBLICATION

Abilene Reporter-News

PART OF THE USA TODAY NETWORK

Certificate of
Publication

MCCALL, PARKHURST & HORTON L.L.P.
717 NORTH HARWOOD, STE 900
DALLAS, TX 75201

STATE OF WISCONSIN)

COUNTY OF BROWN)

Before me, the undersigned authority, on this day
personally appeared representing the Abilene
Reporter-News being duly sworn deposes and says that
the following notice(s) published in said newspaper
generally circulated in Brown, Callahan, Coleman,
Comanche, Eastland, Erath, Fisher, Haskell, Jones,
Knox, Mitchell, Nolan, Runnels, Scurry, Shackelford,
Stephans, Stonewall, Taylor counties, Texas by:

Free Legal Assistance for low Income Texans

On the following date(s) to wit:

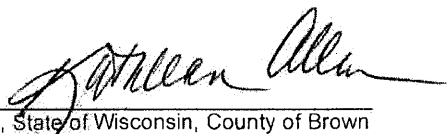
5/29/2022



Legal Notice Clerk

On this, June 7, 2022

I certify that the attached document
is a true and exact copy made by the publisher.:



Notary Public, State of Wisconsin, County of Brown

1-7-8
Notary expires

Publication Cost: \$606.25

Ad No: 0005274622

Customer No: 2147549262

KATHLEEN ALLEN
Notary Public
State of Wisconsin

NOTICE OF PUBLIC
HEARING

The Tarrant County Cultural Education Facilities Finance Corporation (the "Issuer") will hold a combined public hearing at 10:00 a.m. on Monday, June 6, 2022 via teleconference, regarding a proposal for issuance by the Issuer of its qualified 501(c)(3) Revenue Bonds (CMW Obligated Group) (the "Bonds"), in one or more series, in an aggregate principal amount not to exceed \$180,000,000. The Bonds will be issued to finance the acquisition, renovation, and construction of 1) a community consisting of 81 independent living units, 52 independent living cottages, 19 assisted living units, and 30 skilled nursing units, including the construction of additional independent living cottages, located at 2617 Antilley Road, Abilene, Texas 79606, known as Wesley Court Senior Living ("Wesley Court") to be owned by Wesley Court, LLC, a Texas nonprofit limited liability company ("Wesley Court, LLC"), 2) a community consisting of 65 independent living villas, 108 independent living units, 40 assisted living units, and 64 skilled nursing units located at 5500 SW 9th Avenue, Amarillo, Texas 79106, known as The Craig Senior Living ("The Craig") to be owned by Craig Amarillo, LLC, a Texas nonprofit limited liability company ("Craig Amarillo, LLC"), and 3) a community consisting of 41 independent living cottages, 80 independent living units, 20 assisted living units, 34 memory care units, and 30 skilled nursing units located at 16044 CR 165, Tyler, Texas, 75703, known as Meadow Lake Senior Living ("Meadow Lake," and together with Wesley Court and the Craig, the "Project") to be owned by Meadow Lake, LLC, a Texas nonprofit limited liability company ("Meadow Lake, LLC," and together with Wesley Court, LLC and Craig Amarillo, LLC, the "Obligors"). The proceeds of the Bonds are expected to be expended as follows: not to exceed \$125,000,000 at Wesley Court, not to exceed \$125,000,000 at The Craig, and not to exceed

\$125,000,000 at Meadow Lake.

The sole member of each of the Obligors will be an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

The Bonds, when issued, will be a limited obligation of the Issuer and will not constitute a general obligation or indebtedness of the State of Texas or any political subdivision thereof, including the Issuer, nor will it be payable in any amount by taxation, but the Bonds will be payable solely and only from amounts received from the Obligors under a loan agreement between the Issuer and the Obligors, the obligation of which will be sufficient to pay the principal of, interest and redemption premium, if any, on the Bonds as and when the same shall become due.

Members of the general public may attend the hearing by calling the following toll-free number: 1-888-557-8511 (Passcode: 3788659#). Prior to the hearing, written comments regarding the Project or the Bonds may be submitted to counsel to the Issuer.

Mr. Randal L. Dean
Brown Pruitt Wambsganss
Dean Forman & Moore,
P.C.
201 Main Street, Suite 801
Fort Worth, Texas 76102

EXHIBIT B

PUBLIC COMMENT

Public comment by Mary Jo Loyd, current resident of Wesley Court: While she supports the acquisition of Wesley Court by a non-profit entity, she has concerns about the borrowers overextending themselves with debt. She wishes for improvements and repairs to be made at Wesley Court prior to any new construction at the property.

EXHIBIT B
FORM OF CONSENT RESOLUTION

RESOLUTION APPROVING THE FINANCING BY
TARRANT COUNTY CULTURAL EDUCATION FACILITIES FINANCE CORPORATION
OF HEALTH FACILITIES LOCATED WITHIN
THE CITY OF ABILENE, TEXAS

WHEREAS, the Cultural Education Facilities Finance Corporation Act, Chapter 337, Texas Local Government Code, as amended (the “Act”), authorizes and empowers Tarrant County Cultural Education Facilities Finance Corporation (the “Issuer”) to issue revenue bonds or notes on behalf of Tarrant County, Texas (the “Issuing Unit”) to finance the cost of health facilities found by the Board of Directors of the Issuer to be required, necessary or convenient for health care, research and education, any one or more, within the State of Texas and in furtherance of the public purposes of the Act; and

WHEREAS, Wesley Court, LLC, Craig Amarillo, LLC and Meadow Lake, LLC (collectively, the “Borrowers”), each a Texas nonprofit limited liability company, have requested the Issuer to issue its Revenue Bonds (CMW Obligated Group) (the “Bonds”), in one or more series, in an aggregate principal amount not to exceed \$180,000,000. The sole member of each of the Obligors will be an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”). The Bonds will be issued to finance the acquisition, renovation, and construction of 1) a community consisting of 81 independent living units, 52 independent living cottages, 19 assisted living units, and 30 skilled nursing units, including the construction of additional independent living cottages, located at 2617 Antilley Road, Abilene, Texas 79606, known as Wesley Court Senior Living (“Wesley Court”) to be owned by Wesley Court, LLC, 2) a community consisting of 65 independent living villas, 108 independent living units, 40 assisted living units, and 64 skilled nursing units located at 5500 SW 9th Avenue, Amarillo, Texas 79106, known as The Craig Senior Living (“The Craig”) to be owned by Craig Amarillo, LLC, and 3) a community consisting of 41 independent living cottages, 80 independent living units, 20 assisted living units, 34 memory care units, and 30 skilled nursing units located at 16044 CR 165, Tyler, Texas, 75703, known as Meadow Lake Senior Living (“Meadow Lake,” and together with Wesley Court and the Craig, the “Project”) to be owned by Meadow Lake, LLC. The proceeds of the Bonds are expected to be expended as follows: not to exceed \$125,000,000 at Wesley Court, not to exceed \$125,000,000 at The Craig, and not to exceed \$125,000,000 at Meadow Lake; and

WHEREAS, pursuant to Section 147(f) of the Code, the Issuer has caused to be published a notice of a public hearing (the “TEFRA Notice”) with respect to the issuance of the Bonds and the financing of the Project, and held such hearing after reasonable notice on June 6, 2022 (the “TEFRA Hearing”); and

WHEREAS, pursuant to the provisions of Section 147(f) of the Code, the City Council of the City of Abilene, Texas (the “City”), after the TEFRA Hearing, must approve issuance of the Bonds by the Issuer to enable the Bonds to qualify as tax-exempt obligations under the Code; Now Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

Section 1. The City Council, solely for the purposes of Section 147(f) of the Code, hereby approves the issuance of the Bonds by the Issuer to finance the Project for the benefit of the Borrower.

Section 2. The foregoing approval is given in accordance with the provisions of Section 147(f) of the Code and for no other purposes and is not to be construed as an undertaking by the City. The Bonds shall not constitute a liability, indebtedness, or an obligation of the City nor shall any of the assets of the City be pledged to the payment of the Bonds.

Section 3. This resolution shall take effect immediately from and after its passage and it is accordingly so resolved.

PASSED AND APPROVED, this the _____ day of _____, 2022.

Mayor

Resolution Approving Financing by Tarrant County Cultural Education Facilities Finance Corporation

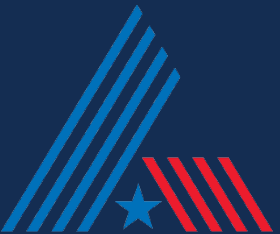


Resolution Approving Financing by Tarrant County Cultural Education Facilities Finance Corporation

- The Tarrant County Cultural Education Facilities Finance Corporation (TCCEFFC) is proposing to issue bonds for the acquisition, renovation, and construction of three senior living facilities across the state including Wesley Court in Abilene.
- Internal Revenue Code of 1986 Section 147(f) requires that the issuance of any qualified 501(c)(3) obligations be approved by either the chief elected officer or governing body of the City with jurisdiction over the facility, after a public hearing following reasonable public notice.
- TCCEFFC held a public hearing on June 6, 2022 after posting notice in the Abilene Reporter News.
- The City shall have no liabilities for the payments of the obligations nor shall any of the City's assets be pledged to secure the obligations.



Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 6/23/2022

TO: Robert Hanna, City Manager

FROM: Max Johnson, Director of Public Works

SUBJECT: 5. Resolution: Receive a Report, Hold a Discussion and Take Action Authorizing the City Manager to enter into an agreement with Texas Department of Transportation for the S 14th St Walkability Project (Max Johnson)

GENERAL INFORMATION

This contract is for an Advanced Funding Agreement (AFA) where in the City of Abilene will be entering an agreement with the Texas Department of Transportation (TxDOT) in order to participate in the currently approved off-state system Transportation Alternatives Set-Aside (TASA) Program. The result of which will be such that pedestrian facilities will be installed along S 14th St from Pioneer Dr to Barrow St at a 20% cost to the City of Abilene.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

City of Abilene's portion of this project is allocated through remaining funds from the 2015 General Bond Fund.

STAFF RECOMMENDATION

Staff recommends approval of this agreement which has an estimated cost to the City of Abilene of \$437,281.00.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. S 14th Sidewalk Resolution
2. Full AFA
3. PROJECT LOCATION MAP Model (1)
4. S 14th Sidewalk ppt

RESOLUTION NO _____

RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT BETWEEN THE TEXAS DEPARTMENT OF TRANSPORTATION AND THE CITY OF ABILENE TO PARTICIPATE WITHIN THE INSTALATION OF PEDESTRIAN FACILITIES ALONG S 14TH ST THROUGH THE FEDERAL OFF-SYSTEM TRANSPORTATION ALTERNATIVES SET-ASIDE (TASA) PROGRAM ADMINISTERED BY THE TEXAS DEPARTMENT OF TRANSPORTATION.

WHEREAS, on October 28, 2021, via Minute Order 116126, the Texas Transportation Commission authorized S 14th Walkability Project to receive Transportation Alternatives Set-Aside (TASA) funds for project construction and Texas Department of Transportation (TxDOT) oversight; and

WHEREAS, the TASA funds require a local match, the City of Abilene commits to provide the match. The local match is comprised of cash or Transportation Development Credits (TDCs); and

WHEREAS, the City of Abilene is responsible for all non-reimbursable costs and 100% of overruns, if any; and

WHEREAS, the Governing Body of the City of Abilene desires to reaffirm its support of the Project and approve and authorize the execution of an Advance Funding Agreement (AFA) with TxDOT for the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That the City of Abilene confirms its agreement with the State to secure all match funding for the approved federal off-system transportation alternative project, that all requirements of TAC 43 will be implemented, and the City Manager, in consideration of the foregoing premises and the mutual benefits to be derived therefrom, is hereby authorized and directed to execute and attest on behalf of the City of Abilene, and agreement to Contribute Funds for the above referenced project, referenced by the date of June 23, 2022.

PART 2: That the sum of Four Hundred-Thirty-Seven Thousand-Two Hundred-Eighty-One Dollars and Zero Cents (\$437,281.00), which represents twenty percent (20%) of, the estimated total cost of the transportation alternative project, is hereby appropriated and the City Manager is hereby authorized and directed to pay the sum indicated from the funds available in the budget accounts.

ADOPTED: this 23rd day of June, 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

TxDOT:				Federal Highway Administration:	
CSJ #	0908-33-107			CFDA No.	20.205
District #	08-ABL	AFA ID	Z00003192	CFDA Title	Highway Planning and Construction
Code Chart 64 #	00150-City of Abilene				
Project Name	South 14 th Walkability Project			AFA Not Used For Research & Development	

STATE OF TEXAS §

COUNTY OF TRAVIS §

**ADVANCE FUNDING AGREEMENT
FOR A TRANSPORTATION ALTERNATIVES
SET-ASIDE (TASA) PROGRAM PROJECT
TxDOT-Selected Off-System**

This Advance Funding Agreement for a Transportation Alternatives Set-Aside (TASA) Program Project ("Agreement") is made between the State of Texas (State), acting through the Texas Department of Transportation, and the City of Abilene (Local Government), acting through its duly authorized officials.

WITNESSETH

WHEREAS, federal law establishes federally funded programs for transportation improvements to implement its public purposes, and

WHEREAS, the Texas Transportation Code, Section 201.103 establishes that the State shall design, construct and operate a system of highways in cooperation with local governments, and Section 222.052 authorizes the Texas Transportation Commission to accept contributions from political subdivisions for development and construction of public roads and the state highway system within the political subdivision, and

WHEREAS, Federal law, 23 USC §134 and 49 USC §5303, requires that State and Metropolitan Planning Organizations (MPOs) develop transportation plans and programs for urbanized areas of Texas, and

WHEREAS, Federal and state laws require local governments to meet certain contract standards relating to the management and administration of State and federal funds, and

WHEREAS, the Texas Transportation Commission has codified 43 TAC, Rules 15.50-15.56 that describe federal, state, and local responsibilities for cost participation in highway improvement and other transportation projects, and

WHEREAS, the rules and procedures for the Transportation Alternatives Set-Aside Program (TASA) are established in 23 USC §133(h), and 43 Texas Administrative Code, Part 1, Chapter 11, Subchapter G, §§11.400 – 11.418, and

WHEREAS, the Local Government prepared and submitted to the State or Metropolitan Planning Organization (MPO) a project nomination package for TASA funding consideration, which is briefly described as **South 14th Walkability Project** (Project), and

TxDOT:				Federal Highway Administration:	
CSJ #	0908-33-107			CFDA No.	20.205
District #	08-ABL	AFA ID	Z00003192	CFDA Title	Highway Planning and Construction
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Project Name	South 14th Walkability Project			AFA Not Used For Research & Development	

WHEREAS, the Texas Transportation Commission (Commission) passed Minute Order Number 116126 (MO) dated October 28, 2021 awarding funding for TASA projects in the TASA Program Call of the State, including Project, and

WHEREAS, the governing body of the Local Government has approved entering into this Agreement by resolution or ordinance dated {enter date of resolution}, which is attached to and made a part of this Agreement as Attachment C, Resolution or Ordinance. A map showing the Project location appears in Attachment A, Project Location Map, which is attached to and made a part of this Agreement, and

NOW, THEREFORE, the State and the Local Government agree as follows:

AGREEMENT

1. Period of Agreement and Performance

- A. Period of Agreement. This Agreement becomes effective when signed by the last party whose signing makes the Agreement fully executed. This Agreement shall remain in effect until terminated as provided below.
- B. Period of Performance.
 1. The Performance Period for each phase of work begins on the date specified in the Federal Project Authorization and Agreement (FPAA) for that phase of work. Local Government may not begin work until issued the State Letter of Authority (SLOA) for that phase of work.
 2. The Performance Period for each phase of work ends on the date specified in the FPAA for that phase of work.

2. Scope of Work and Use of Project

- A. The scope of work for Project consists of 5-foot wide sidewalk along the north side of South 14th St from Pioneer Dr to Barrow St. This would be pedestrian improvements including crosswalks, pedestrian signal heads, traffic island, curb ramps, along with pedestrian bridges over Catclaw Creek and Elm Creek. A well-worn path runs the entirety of the project. It will tie into existing and under construction sidewalks providing a transportation network from low/mod households, Head Start facility, grocery & retail stores, restaurants, 3 shopping centers, transit facilities, convenience stores, schools, & institutions providing medical, rehabilitation, & substance abuse services..
- B. Any project changes proposed must be submitted in writing by Local Government to State. Substantive changes may also require an amendment to this Agreement and the approval of the FHWA, State, MPO, or the Commission. Any changes undertaken without written approval and amendment of this Agreement may jeopardize not only the federal funding for the changes, but the federal funding of the entire Project.

3. Project Sources and Uses of Funds

The total estimated development cost of the Project is shown in Attachment B, Project Budget Estimate and Source of Funds (Attachment B).

- A. If Local Government will perform any work under this Agreement for which reimbursement will be provided by or through the State, the Local Government must

TxDOT:				Federal Highway Administration:	
CSJ #	0908-33-107			CFDA No.	20.205
District #	08-ABL	AFA ID	Z00003192	CFDA Title	Highway Planning and Construction
Code Chart 64 #	00150-City of Abilene				
Project Name	South 14th Walkability Project			AFA Not Used For Research & Development	

complete training. If federal funds are being used, the training must be completed before federal spending authority is obligated. Training is complete when at least one individual who is working actively and directly on the Project successfully completes and receives a certificate for the course entitled "Local Government Project Procedures and Qualification for the Texas Department of Transportation" and retains qualification in accordance with applicable TxDOT procedures. Upon request, Local Government shall provide the certificate of qualification to State. The individual who receives the training certificate may be an employee of Local Government or an employee of a firm that has been contracted by Local Government to perform oversight of the Project. State in its discretion may deny reimbursement if Local Government has not continuously designated in writing a qualified individual to work actively on or to directly oversee the Project.

- B. The total estimated project cost as shown in Attachment B includes the Local Government's estimated itemized cost of real property, utilities, environmental assessments, construction, and other construction related costs. To be eligible for reimbursement or as in-kind contribution, costs must have been included in the nomination form approved by the Texas Transportation Commission or MPO in consultation with State. Local Government must submit to State evidence of payment for eligible in-kind costs at least once per calendar quarter using the State's In-Kind Match Reporting form.
- C. State and the Federal Government will not reimburse Local Government for any work performed outside the Performance Period. After federal funds have been obligated, State will send to Local Government a copy of the formal documentation showing the obligation of funds including federal award information. Local Government is responsible for 100 percent of the cost of any work performed under its direction or control before the federal spending authority is formally obligated.
- D. The Project budget and source of funds estimate based on the budget provided in the application is included in Attachment B. Attachment B shows the percentage and estimated dollar amounts to be contributed to Project by state and local sources, as well as the maximum amount in federal TASA funds assigned by the Commission or MPO in consultation with State. This Agreement may be amended from time to time as required to meet the funding commitments based on revisions to the TASA, FPAA, or other federal documents.
- E. State will be responsible for securing the federal share of funding required for the development and construction of Project, in an amount not to exceed 80 percent of the actual cost of the work up to the amount of funds approved for Project by the Texas Transportation Commission or MPO in consultation with State. Federal funds will be reimbursed on a cost basis. Project costs incurred prior to issuance of the SLOA are not eligible for reimbursement.
- F. The Local Government will be responsible for all non-federal or non-State participation costs associated with the Project, unless otherwise provided for in this Agreement or approved otherwise in an amendment to this Agreement. For items of work subject to specified percentage funding, the Local Government shall only in those instances be responsible for all Project costs that are greater than the maximum State and federal participation specified in Attachment B and for overruns in excess of the amount specified in Attachment B to be paid by the Local Government. If the Project was State-

TxDOT:				Federal Highway Administration:	
CSJ #	0908-33-107			CFDA No.	20.205
District #	08-ABL	AFA ID	Z00003192	CFDA Title	Highway Planning and Construction
Code Chart 64 #	00150-City of Abilene				
Project Name	South 14th Walkability Project			AFA Not Used For Research & Development	

selected, the State may apply a portion of any excess program funds to cover all or a portion of any overrun based on criteria provided by 43 Tex. Admin. Code §11.411(d).

- G. The budget in Attachment B will clearly state all items subject to fixed price funding, specified percentage funding, and the periodic payment schedule, when periodic payments have been approved by the State.
- H. When fixed price funding is used, the Local Government is responsible for the fixed price amount specified in Attachment B. Fixed prices are not subject to adjustment unless (1) differing site conditions are encountered; (2) further definition of the Local Government's requested scope of work identifies greatly differing costs from those estimated; (3) work requested by the Local Government is determined to be ineligible for federal participation; or (4) the adjustment is mutually agreed to by the State and the Local Government.
- I. Following execution of this Agreement, but prior to the performance of any plan review work by State, Local Government will pay to State the amount specified in Attachment B for plan review. At least 60 days prior to the date set for receipt of the construction bids, Local Government shall remit its remaining local match as specified in Attachment B for State's estimated construction oversight and construction cost.
- J. In the event State determines that additional funding is required by Local Government at any time during Project, State will notify Local Government in writing. Local Government is responsible for the percentage of the authorized Project cost shown in Attachment B and 100 percent of any overruns above the federally authorized amount. Local Government will make payment to State within 30 days from receipt of State's written notification.
- K. Whenever funds are paid by Local Government to State under this Agreement, Local Government will remit a warrant made payable to the "Texas Department of Transportation". The warrant will be deposited by State and managed by State. Funds may only be applied by State to Project.
- L. Upon completion of Project, State will perform a final accounting of Project costs. Any funds due to Local Government, State, or the Federal Government will be promptly paid by the owing party.
- M. In the event Project is not completed, State may seek reimbursement from Local Government of the expended federal funds. Local Government will remit the required funds to State within 60 days from receipt of State's notification.
- N. If any existing or future local ordinances, commissioners court orders, rules, policies, or other directives, including but not limited to outdoor advertising billboards and storm water drainage facility requirements, are more restrictive than state or federal regulations, or if any other locally proposed changes, including but not limited to plats or re-plats, result in increased costs, then any increased costs associated with the ordinances or changes will be paid by Local Government. The cost of providing right of way acquired by State shall mean the total expenses in acquiring the property interests through negotiations, including, but not limited to, expenses related to relocation, removal, and adjustment of eligible utilities.
- O. The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under the Agreement or indirectly through a contract or subcontract under the Agreement. Acceptance of funds directly under the Agreement or indirectly through a contract or subcontract under this Agreement acts as

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acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

- P. State will not pay interest on any funds provided by Local Government.
- Q. State will not execute the contract for the construction of Project until the required funding has been made available by Local Government in accordance with this Agreement.
- R. Local Government is authorized to submit requests for reimbursement by submitting the original of an itemized invoice in a form and containing all items required by State no more frequently than monthly, and no later than 90 days after costs are incurred. If Local Government submits invoices more than 90 days after the costs are incurred, and if federal funding is reduced as a result, State shall have no responsibility to reimburse Local Government for those costs.
- S. If Local government is an Economically Disadvantaged County (EDC) and if State has approved adjustments to the standard financing arrangement, this agreement reflects those adjustments.

4. Termination of the Agreement

- A. This Agreement may be terminated by any of the following conditions:
 - 1. By mutual written consent and agreement of all parties;
 - 2. By any party with 90 days written notice; or
 - 3. By either party, upon the failure of the other party to fulfill the obligations as set forth in this Agreement. Any cost incurred due to such breach of contract shall be paid by the breaching party.
- B. If the potential termination of this Agreement is due to the failure of Local Government to fulfill its contractual obligations, State will notify Local Government that possible breach of contract has occurred. Local Government should make every effort to remedy the breach within a period mutually agreed upon by both parties.
- C. The Agreement may be terminated by the State because the parties are not able to execute a mutually agreeable amendment when the costs for Local Government requested items increase significantly due to differing site conditions, determination that Local government requested work is ineligible for federal or state cost participation, or a more thorough definition of the Local Government's proposed work scope identifies greatly differing costs from those estimated. The State will reimburse Local Government remaining funds to the Local Government within ninety (90) days of termination;
- D. If Local Government withdraws from Project after this Agreement is executed, Local Government shall be responsible for all direct and indirect Project costs as identified by the State's cost accounting system and with 2 CFR Part 200 recapture requirements.
- E. A project may be eliminated from the program as outlined below. If Project is eliminated for any of these reasons, this Agreement will be appropriately terminated. A project may be eliminated from the program, and this Agreement terminated, if:
 - 1. Local Government fails to satisfy any requirements of the program rules cited in 43 Texas Administrative Code, Part 1, Chapter 11, Subchapter G, §§11.400 – 11.418.

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2. The implementation of Project would involve significant deviation from the activities proposed in the nomination form and approved by the Texas Transportation Commission or MPO in consultation with State.
 3. Local Government withdraws from participation in Project.
 4. State determines that federal funding may be lost due to Project not being implemented and completed.
 5. Funds are not appropriated, in which case this Agreement shall be terminated immediately with no liability to either party. Payment under this Agreement beyond the current fiscal biennium is subject to availability of appropriated funds.
 6. A construction contract has not been awarded or construction has not been initiated within three years after the date that the Commission or MPO selected the project or by a letting date determined by the state and agreed to by the Local Government.
 7. Local Government fails to attend progress meetings at least twice yearly, as scheduled by State.
- F. State, at its sole discretion, may terminate this Agreement if State does not receive project invoice from Local Government within 270 days of FPAA.

5. Amendments

This Agreement may be amended due to changes in the work, the amount of funding required to complete Project, or the responsibilities of the parties. Such amendment must be made through a mutually agreed upon, written amendment that is executed by the parties.

6. Remedies

This Agreement shall not be considered as specifying the exclusive remedy for any agreement default, but all remedies existing at law and in equity may be availed of by either party to this Agreement and shall be cumulative.

7. Utilities

Local Government shall be responsible for the adjustment, removal, or relocation of utilities or utility facilities in accordance with applicable State laws, regulations, rules, policies, and procedures, including any cost to State of a delay resulting from Local Government's failure to ensure that utilities or utility facilities are adjusted, removed, or relocated before the scheduled beginning of construction. At the State's discretion, State may reimburse Local Government for minor, incidental utility adjustments that are identified during the preliminary engineering phase if they are eligible for federal reimbursement. Local Government must obtain advance approval for any variance from established procedures. Before a construction contract is let, Local Government shall provide, at State's request, a certification stating that Local Government has completed the adjustment of all utilities that must be adjusted before construction begins. Additional utility work may be required due to unknown conditions discovered during construction. These costs may be eligible for TASA participation if the following conditions are met: (1) the activity is required to complete Project; (2) the cost is incidental to Project; and (3) TASA funding is available. Any change orders must be approved by State prior to incurring any cost for which reimbursement is sought.

8. Environmental Assessment and Mitigation

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Development of Project must comply with the National Environmental Policy Act and the National Historic Preservation Act of 1966, which require environmental clearance of federal-aid projects.

- A. The **Local Government** is responsible for the identification and assessment of any environmental problems associated with the development of Project.
- B. Local Government is responsible for the cost of any environmental problem's mitigation and remediation. These costs will not be reimbursed or credited towards Local Government's financial share of Project unless specified in the nomination form and approved by State or MPO in consultation with State.
- C. Local Government is responsible for providing any public meetings or public hearings required for development of the environmental assessment, including any public hearing requirements that may be necessary when adding a bike lane.
- D. Before the advertisement for bids, Local Government shall provide to State written documentation from the appropriate regulatory agency or agencies that all environmental clearances have been obtained.

9. **Compliance with Accessibility Standards**

All parties to this Agreement shall ensure that the plans for and the construction of all projects subject to this Agreement are in compliance with standards issued or approved by the Texas Department of Licensing and Regulation (TDLR) as meeting or consistent with minimum accessibility requirements of the Americans with Disabilities Act (P.L. 101-336) (ADA).

10. **Architectural and Engineering Services**

- A. Architectural and engineering services for preliminary engineering will be provided by the **Local Government**. In procuring professional services, the parties to this Agreement must comply with federal requirements cited in 23 CFR Part 172 if Project is federally funded and Local Government will be seeking reimbursement for these services or if these services will be used as in-kind contributions; and with Texas Government Code Subchapter 2254.A., in all cases. Professional services contracts for federally funded projects must conform to federal requirements. For State-selected projects, architectural and engineering services are not eligible for TASA reimbursement.
- B. The architectural contract documents shall be developed in accordance with the standards of the American Institute of Architects, the U.S. Secretary of the Interior's Standards for Historic Preservation Projects, Standards and Guidelines for Archeology and Historic Preservation, the National Register Bulletin Number 36: Guidelines for Evaluating and Registering Historical Archeological Sites and in consultation with the State Historic Preservation Officer, as applicable. The engineering plans shall be developed in accordance with State's applicable Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges and the two American Association of State Highway and Transportation Officials' ("AASHTO") publications, "A Policy on Geometric Design of Highways and Streets" and "Guide for the Development of Bicycle Facilities," as applicable. All design criteria for bicycle and pedestrian bridges must comply with TxDOT's Bridge Design Manual and AASHTO's Load and Resistance Factor Design (LRFD) Guide Specifications for the Design of Pedestrian Bridges (latest edition) as applicable. All contract procurement procedures and documents must adhere to the applicable requirements established in the Standard

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Specifications for Construction and Maintenance of Highways, Streets and Bridges. The use of other systems of specifications shall be approved by State in writing in advance.

- C. When architectural and engineering services are provided by or through Local Government, Local Government shall submit any plans it has completed to State for review and approval on an agreed upon schedule. Local Government may also submit the plans to State for review any time prior to completion. Local Government shall make the necessary revisions determined by State. Local Government will not let the construction contract until all required plans have received State approval.
- D. When architectural and engineering services are provided by or through State, then the State is responsible for the delivery and performance of any required architectural or preliminary engineering work. Local Government may review and comment on the work, including any proposed changes to the scope of work, as required to accomplish Project purposes. State will cooperate with Local Government in accomplishing these Project purposes to the degree permitted by state and federal law.

11. Construction Responsibilities

- A. The **Local Government** shall advertise for construction bids, issue bid proposals, receive and tabulate the bids, and award and administer the contract for construction of Project. Administration of the contract includes the responsibility for construction engineering and for issuance of any change orders, supplemental agreements, amendments, or additional work orders that may become necessary subsequent to the award of the construction contract. To ensure federal funding eligibility, projects must be authorized by State prior to advertising for construction.
- B. All contract letting and award procedures must be approved by State prior to letting and award of the construction contract, whether the construction contract is awarded by State or by Local Government.
- C. All contract change order review and approval procedures must be approved by State prior to start of construction.
- D. If the Local Government is the responsible party, the State must review and approve change orders.
- E. Upon completion of Project, the party constructing Project will issue and sign a "Notification of Completion" acknowledging Project's construction completion.
- F. For federally funded contracts, the parties to this Agreement will comply with federal construction requirements provided in 23 CFR Parts 633 and 635, and shall include the latest version of Form "FHWA-1273" in the contract bidding documents. If force account work will be performed, a finding of cost effectiveness shall be made in compliance with 23 CFR Subpart 635.B.
- G. Any field changes, supplemental agreements, or revisions to the design plans that may occur after the construction contract is awarded will be mutually agreed to by State and Local Government prior to authorizing the contractor to perform the work. Prior to completion of Project, the party responsible for construction will notify the other party to this Agreement of the anticipated completion date. All parties will be afforded the opportunity to assist in the final review of the construction services performed by the contractor.

12. Project Maintenance

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- A. Upon completion of Project, Local Government will be responsible for maintaining the completed facility for public use. The property shall be maintained and operated for the purpose for which it was approved and funded for a period commensurate with the federal investment or State rules, whichever is greater. Should Local Government at any time after Project completion decide it can no longer maintain and operate Project for its intended purpose, Local Government shall consult with State and the FHWA as to the disposal or alternate uses, consistent with Project's original intent. State may require Local Government to return the federal funds in accordance with 2 CFR Part 200 federal recapture requirements. Should Local Government consider conveying the property, State and FHWA must be notified prior to the sale, transfer, or disposal of any property that received federal funds. Written concurrence of approval for the transaction, detailing any required recapture, must be obtained from FHWA prior to the transaction. Advance notice from Local Government of their intended action must be submitted to State for an FHWA review a minimum of 90 days prior to any action being taken by Local Government. Local Government shall be held responsible for reimbursement of all federal funds used or a portion of those funds based on a pro-rata amount, considering the original percentage of federal funds provided and the time elapsed from Project completion date. This same percentage of reimbursement also applies to any amount of profit that may be derived from the conveyance of the property, as applicable.
- B. Any manufacturer warranties extended to Local Government as a result of Project shall remain in the name of Local Government. State shall not be responsible for honoring any warranties under this Agreement.
- C. Should Local Government derive any income from the development and operation of Project, a portion of the proceeds sufficient for the maintenance and upkeep of the property shall be set aside for future maintenance. A project income report shall be submitted to State on a quarterly basis. Monies set aside according to this provision shall be expended using accounting procedures and with the property management standards established in 2 CFR Part 200.
- D. Should any historic properties be included in or affected by this federally funded Project, the historic integrity of the property and any contributing features must continue to be preserved regardless of any approved changes that may occur throughout the life of Project.

13. Right of Way and Real Property Acquisition

- A. Right of way and real property acquisition shall be the responsibility of Local Government. Title to right of way and other related real property must be acceptable to State before funds may be expended for the improvement of the right of way or real property.
- B. If Local Government is the owner of any part of Project site under this Agreement, Local Government shall permit State or its authorized representative access to occupy the site to perform all activities required to execute the work.
- C. Local Government will comply with and assume the costs for compliance with all the requirements of Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 USC §4601 et seq., including those provisions relating to incidental expenses incurred by the property owners in conveying the real property to Local Government, and benefits applicable to the relocation of any

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displaced person as defined in 49 CFR §24.2(g). Documentation to support such compliance must be maintained and made available to State and its representatives for review and inspection.

- D. Local Government shall assume all costs and perform all work necessary to obtain needed evidence of title or right of use to the real property required for development of Project. Evidence of title or right of use shall be acquired in the name of (1) State, if the real property is to be made part of the State Highway System, or (2) Local Government, if the real property is not to be made part of the State Highway System. The evidence of title or rights shall be acceptable to State, and be free and clear of all encroachments. Local Government shall secure and provide easements and any needed rights of entry over any other land needed to develop Project according to the approved Project plans. Local Government shall be responsible for securing any additional real property required for completion of Project.
- E. Local Government shall prepare real property maps, property descriptions, and other data as needed to properly describe the real property and submit them to State for approval prior to Local Government acquiring the real property. Tracings of the maps shall be retained by Local Government for a permanent record.
- F. Local Government shall determine property values for each real property parcel to be purchased with federal funds using methods acceptable to State and shall submit to State a tabulation of the values so determined, signed by the appropriate Local Government representative. The tabulations must list the parcel numbers, ownership, acreage, and recommended compensation. The tabulation must be accompanied by an explanation to support the estimated values, together with a copy of the documentation and reports used in calculating each parcel's value. Expenses incurred by Local Government in performing this work may be eligible for reimbursement after Local Government has received written authorization by State to proceed with determination of real property values. State will review the data submitted and will base its reimbursement for parcel acquisitions on these in determining the fair market values. Local Government will not be reimbursed for right-of-way costs on state-selected projects.
- G. For State-selected TASA projects, Local Government shall not use eminent domain or condemnation to acquire real property for this TASA Project.
- H. Reimbursement for real property costs will be made to Local Government for real property purchased in an amount not to exceed 80 percent of the cost of the real property purchased in accordance with the terms and provisions of this Agreement. Reimbursement will be in an amount not to exceed 80 percent of State's predetermined fair market value of each parcel, or the net cost thereof, whichever is less. In addition, reimbursement will be made to Local Government for necessary payments to appraisers for expenses incurred in order to assure good title. Local Government will not be reimbursed for right-of-way costs on state-selected projects.
- I. Local Government and current property owner are responsible for any costs associated with the relocation of displaced persons and personal property as well as incidental expenses incurred in acquiring property to implement Project. State will not pay any of these costs.
- J. If Project requires the use of real property to which Local Government will not hold title, a separate agreement between the owners of the real property and Local Government must be executed prior to execution of this Agreement. The separate agreement

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between Local Government and the current property owner must establish that Project will be dedicated for public use for a period of time not less than ten years after project completion and commensurate with the federal investment. For State-selected projects, this is outlined in 43 Tex. Admin. Code §11.417. The separate agreement must define the responsibilities of the parties as to the use of the real property and operation and maintenance of Project after completion. The separate agreement must be approved by State prior to its execution and a copy of the executed separate agreement shall be provided to State.

- K. Local Government shall execute individually or produce a legal document as necessary to provide for Project's continued use from the date of completion, and agrees to cause the same to be recorded in the land records of the appropriate jurisdiction.
- L. Local governments receiving federal funds must comply with 23 CFR Part 710 and 49 CFR Part 24, and with the procedures provided in Chapter 6 of the State's Local Government Project Policy Manual. Local Government agrees to monitor Project to ensure: (1) continued use of the property for approved activities, and (2) the repayment of the Federal funds, as appropriate. Local Government agrees to the review of their Project accounts and site visits by State during the development of Project at any time. Upon Project completion, State will continue to perform periodic visits to confirm Project's continued use and upkeep.
- M. Before the advertisement for bids, Local Government shall provide a certification to State that all real property has been acquired.

14. Insurance

- A. Should this Agreement authorize Local Government or its contractor to perform any work on State right of way, before beginning work, the entity performing the work shall provide State with a fully executed copy of State's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on State right of way. This coverage shall be maintained until all work on State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately, and State may recover damages and all costs of completing the work.
- B. For projects including buildings, Local Government agrees to insure the building according to Department specifications and further agrees to name the Federal Government as a "Loss Payee" should the building be destroyed.

15. Notices, Invoices, Payments, and Project Inquiries

All notices to either party shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to that party at the following address:

Local Government:	State:
City of Abilene ATTN: City Manager 555 walnut St Abilene, Texas 79601	Texas Department of Transportation ATTN: Director of Contract Services 125 E. 11 th Street Austin, TX 78701

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All notices shall be deemed given on the date delivered in person or deposited in the mail, unless otherwise provided by this agreement. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that notices shall be delivered personally or by certified U.S. mail, and that request shall be carried out by the other party.

Invoicing, payment, and project inquiries must be sent to the following address, which the State may change by sending written notice of the change to the Local Government:

Texas Department of Transportation
ATTN: Jacqueline Myrick
4250 N. Clack St.
Abilene, Tx. 79601

All invoicing, payment, and project inquiries must include the following information:

County: Taylor
Local Government: City of Abilene
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Highway or Roadway: S 14th St

16. Legal Construction

In case one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions and this Agreement shall be construed as if it did not contain the invalid, illegal, or unenforceable provision.

17. Responsibilities of the Parties

Neither party is an agent, servant, or employee of the other party and each party is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

18. Ownership of Documents

Upon completion or termination of this Agreement, all documents prepared by State shall remain the property of State. All data prepared under this Agreement shall be made available to State without restriction or limitation on their further use. All documents produced or approved or otherwise created by Local Government shall be transmitted to State in the form of photocopy reproduction on a monthly basis as required by State. The originals shall remain the property of Local Government.

19. Document and Information Exchange

Local Government agrees to electronically deliver to State all general notes, specifications, contract provision requirements, and related documentation in a Microsoft Word or similar format. If requested by State, Local Government will use State's document template. Local Government shall also provide a detailed construction time estimate, including types of activities and month in which the activity will be completed, in the format required by State.

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This requirement applies whether Local Government creates the documents with its own forces or by hiring a consultant or professional provider. At the request of State, Local Government shall submit any information required by State in the format directed by State.

20. Compliance with Laws

The parties shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this agreement. When required, Local Government shall furnish State with satisfactory proof of this compliance.

21. Sole Agreement

This Agreement constitutes the sole and only agreement between the parties and supersedes any prior understandings or written or oral agreements respecting the Agreement's subject matter.

22. Cost Principles

In order to be reimbursed with federal funds, the parties shall comply with the Cost Principles established in 2 CFR Part 200 that specify that all reimbursed costs are allowable, reasonable, and allocable to Project.

23. Procurement and Property Management Standards

The parties to this Agreement shall adhere to the procurement and property management standards established in 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, and to the Texas Uniform Grant Management Standards. The State must pre-approve the Local Government's procurement procedures for purchases to be eligible for state or federal funds.

24. Inspection of Books and Records

The parties to this Agreement shall maintain all books, documents, papers, accounting records, and other documentation relating to costs incurred under this Agreement and shall make such materials available to the State, the Local Government, and, if federally funded, the FHWA and the U.S. Office of the Inspector General or their duly authorized representatives for review and inspection at its office during the Agreement period and for seven (7) years from the date of final reimbursement by FHWA under this Agreement or until any impending litigation or claims are resolved. Additionally, the State, the Local Government, and the FHWA and their duly authorized representatives shall have access to all the governmental records that are directly applicable to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

25. Civil Rights Compliance

The parties to this Agreement are responsible for the following:

- A. Compliance with Regulations: Both parties will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (USDOT), the Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made part of this Agreement.
- B. Nondiscrimination: The Local Government, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national

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origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Local Government will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

- C. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Local Government for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier will be notified by the Local Government of the Local Government's obligations under this Agreement and the Acts and Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.
- D. Information and Reports: The Local Government will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and facilities as may be determined by the State or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations or directives. Where any information required of the Local Government is in the exclusive possession of another who fails or refuses to furnish this information, the Local Government will so certify to the State or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
- E. Sanctions for Noncompliance: In the event of the Local Government's noncompliance with the Nondiscrimination provisions of this Agreement, the State will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - 1. withholding of payments to the Local Government under the Agreement until the Local Government complies and/or
 - 2. cancelling, terminating, or suspending of the Agreement, in whole or in part.
- F. Incorporation of Provisions: The Local Government will include the provisions of paragraphs (A) through (F) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Local Government will take such action with respect to any subcontract or procurement as the State or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Local Government becomes involved in, or is threatened with, litigation with a subcontractor or supplier because of such direction, the Local Government may request the State to enter into such litigation to protect the interests of the State. In addition, the Local Government may request the United States to enter into such litigation to protect the interests of the United States.

26. Pertinent Non-Discrimination Authorities

During the performance of this Agreement, each party, for itself, its assignees, and successors in interest agree to comply with the following nondiscrimination statutes and authorities; including but not limited to:

- A. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.

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- B. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of federal or federal-aid programs and projects).
- C. Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), as amended, (prohibits discrimination on the basis of sex).
- D. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.) as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27.
- E. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age).
- F. Airport and Airway Improvement Act of 1982, (49 U.S.C. Chapter 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex).
- G. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the federal-aid recipients, subrecipients and contractors, whether such programs or activities are federally funded or not).
- H. Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. Parts 37 and 38.
- I. The Federal Aviation Administration’s Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex).
- J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.
- K. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, the parties must take reasonable steps to ensure that LEP persons have meaningful access to the programs (70 Fed. Reg. at 74087 to 74100).
- L. Title IX of the Education Amendments of 1972, as amended, which prohibits the parties from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

27. Disadvantaged Business Enterprise Program Requirements

- A. The parties shall comply with the Disadvantaged Business Enterprise (“DBE”) Program requirements established in 49 CFR Part 26.
- B. Local Government shall adopt, in its totality, State’s federally approved DBE program.
- C. Local Government shall set an appropriate DBE goal consistent with State’s DBE guidelines and in consideration of Local market, project size, and nature of the goods or services to be acquired. Local Government shall have final decision-making authority regarding the DBE goal and shall be responsible for documenting its actions.

TxDOT:				Federal Highway Administration:	
CSJ #	0908-33-107			CFDA No.	20.205
District #	08-ABL	AFA ID	Z00003192	CFDA Title	Highway Planning and Construction
Code Chart 64 #	00150-City of Abilene				
Project Name	South 14th Walkability Project			AFA Not Used For Research & Development	

- D. Local Government shall follow all other parts of State's DBE program referenced in TxDOT Form 2395, Memorandum of Understanding Regarding the Adoption of the Texas Department of Transportation's Federally-Approved Disadvantaged Business Enterprise by Entity, and attachments found at web address:
http://ftp.dot.state.tx.us/pub/txdot-info/bop/dbe/mou/mou_attachments.pdf.
- E. Local Government shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. Local Government shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of DOT-assisted contracts. State's DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to Local Government of its failure to carry out its approved program, State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 USC 1001 and the Program Fraud Civil Remedies Act of 1986 (31 USC § 3801 et seq.).
- F. Each contract Local Government signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:
"The contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such other remedy as the recipient deems appropriate."

28. Debarment Certifications

The parties are prohibited from making any award at any tier to any party that is debarred or suspended or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, "Debarment and Suspension." By executing this Agreement, Local Government certifies that it and its principals are not currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, and further certifies that it will not do business with any party, to include principals, that is currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549. The parties to this Agreement shall require any party to a contract, subcontract, or purchase order awarded under this Agreement to certify its eligibility to receive federal funds and, when requested by State, to furnish a copy of the certification.

If state funds are used, the parties are prohibited from making any award to any party that is debarred under the Texas Administrative Code, Title 34, Part 1, Chapter 20, Subchapter G, Rule §20.585 and the Texas Administrative Code, Title 43, Part 1, Chapter 9, Subchapter G.

29. Lobbying Certification

In executing this Agreement, each signatory certifies to the best of that signatory's knowledge and belief, that:

TxDOT:				Federal Highway Administration:	
CSJ #	0908-33-107			CFDA No.	20.205
District #	08-ABL	AFA ID	Z00003192	CFDA Title	Highway Planning and Construction
Code Chart 64 #	00150-City of Abilene				
Project Name	South 14th Walkability Project			AFA Not Used For Research & Development	

- A. No federal appropriated funds have been paid or will be paid by or on behalf of the parties to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with federal contracts, grants, loans, or cooperative agreements, the signatory for Local Government shall complete and submit the federal Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The parties shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and all sub-recipients shall certify and disclose accordingly. Submission of this certification is a prerequisite imposed by 31 USC §1352 for making or entering into this transaction. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

30. Federal Funding Accountability and Transparency Act Requirements

- A. Any recipient of funds under this agreement agrees to comply with the Federal Funding Accountability and Transparency Act (FFATA) and implementing regulations at 2 CFR Part 170, including Appendix A. This agreement is subject to the following award terms: <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22705.pdf> and <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22706.pdf>.
- B. Local Government agrees that it shall:
 1. Obtain and provide to State a System for Award Management (SAM) number (Federal Acquisition Regulation (FAR) Subpart 4.11) if this award provides more than \$25,000 in Federal funding. The SAM number may be obtained by visiting the SAM website whose address is: <https://sam.gov/SAM/pages/public/index.jsf>
 2. Obtain and provide to State a Data Universal Numbering System (DUNS) number, a unique nine-character number that allows the federal government to track the distribution of federal money. The DUNS number may be requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet on-line registration website <http://fedgov.dnb.com/webform>; and
 3. Report the total compensation and names of its top five executives to State if:
 - a. More than 80 percent of annual gross revenues are from the Federal government, and those revenues are greater than \$25,000,000; and
 - b. The compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.

31. Single Audit Report

TxDOT:				Federal Highway Administration:	
CSJ #	0908-33-107			CFDA No.	20.205
District #	08-ABL	AFA ID	Z00003192	CFDA Title	Highway Planning and Construction
Code Chart 64 #	00150-City of Abilene				
Project Name	South 14 th Walkability Project			<i>AFA Not Used For Research & Development</i>	

- A. The parties shall comply with the requirements of the Single Audit Act of 1984, P.L. 98-502, ensuring that the single audit report includes the coverage stipulated in 2 CFR Part 200.
- B. If threshold expenditures of \$750,000 or more are met during the fiscal year, the Local Government must submit a Single Audit Report and Management Letter (if applicable) to TxDOT's Compliance Division, 125 East 11th Street, Austin, TX 78701 or contact TxDOT's Compliance Division at singleaudits@txdot.gov.
- C. If expenditures are less than the threshold during Local Government's fiscal year, Local Government must submit a statement to TxDOT's Compliance Division as follows: *We did not meet the \$_____ expenditure threshold and therefore, are not required to have a single audit performed for FY_____.*
- D. For each year Project remains open for federal funding expenditures, Local Government will be responsible for filing a report or statement as described above. The required annual filing shall extend throughout the life of the agreement, unless otherwise amended or Project has been formally closed out and no charges have been incurred within the current fiscal year.

32. Signatory Warranty

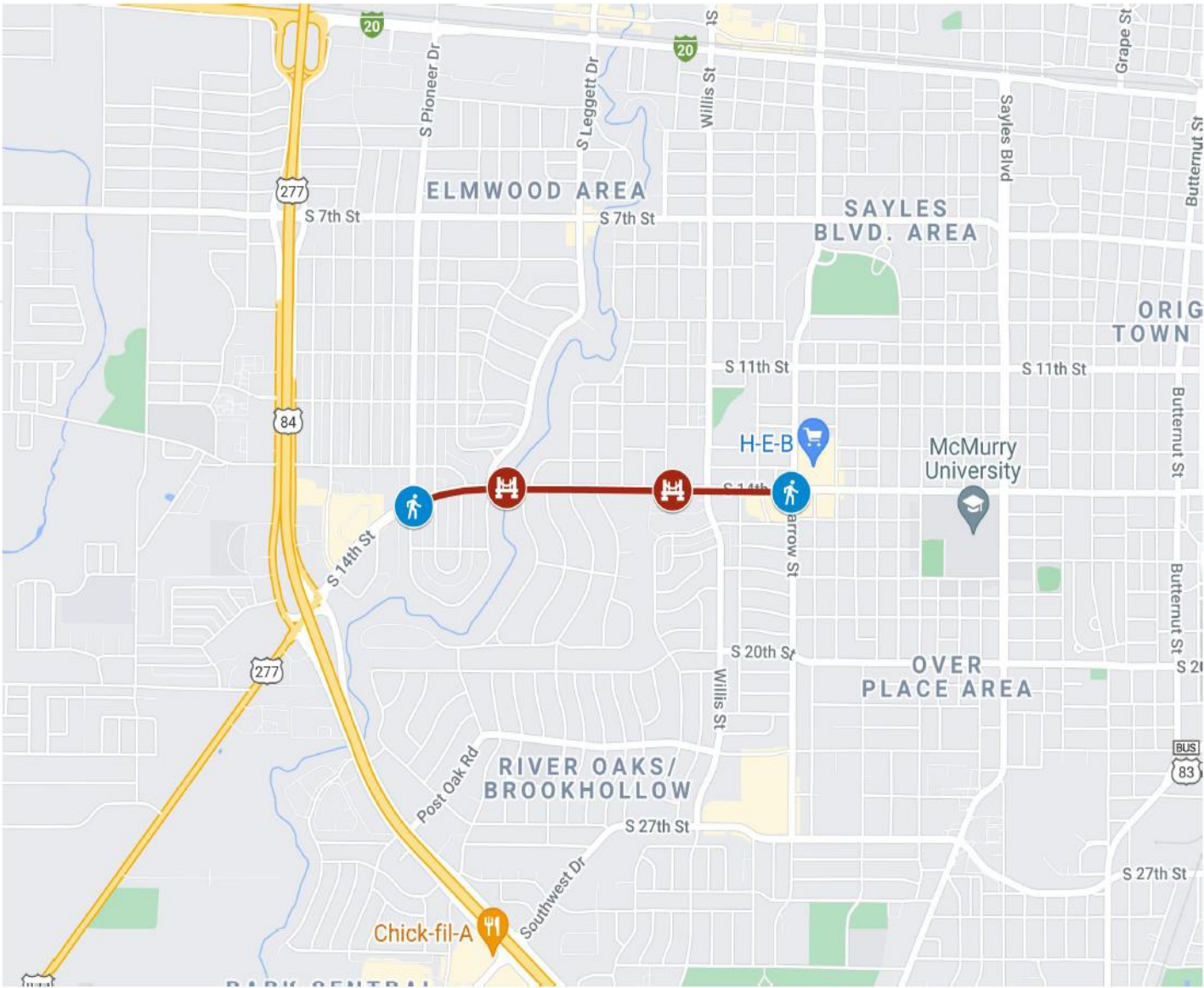
Each signatory warrants that the signatory has necessary authority to execute this agreement on behalf of the entity represented.

Each party is signing this agreement on the date stated under that party's signature.

THE STATE OF TEXAS	THE LOCAL GOVERNMENT
_____	_____
Signature	Signature
Kenneth Stewart	_____
Typed or Printed Name	Typed or Printed Name
Director of Contract Services	_____
Typed or Printed Title	Typed or Printed Title
_____	_____
Date	Date

TxDOT:				Federal Highway Administration:	
CSJ #	0908-33-107			CFDA No.	20.205
District #	08-ABL	AFA ID	Z00003192	CFDA Title	Highway Planning and Construction
Code Chart 64 #	00150-City of Abilene				
Project Name	South 14th Walkability Project			AFA Not Used For Research & Development	

ATTACHMENT A
PROJECT LOCATION MAP



- Sidewalk
- Sidewalk
 - Pedestrian Bridge
 - Pedestrian Bridge
 - Start
 - End

CSJ #	0908-33-107	Project Name:	South 14 th Walkability Project	AFA ID:	Z00003192
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ATTACHMENT B
PROJECT ESTIMATE AND SOURCE OF FUNDS
 LG Performs PE Work or Hires Consultant / LG Lets Project for Construction

Work Performed by Local Government ("LG")								
Description of Project Costs to be Incurred		Total Project Cost Estimate	Federal Participation Includes percentage for TDC apportionment on MPO-selected projects where applicable		State Participation Includes authorized EDC amounts		Local Government Participation Includes authorized EDC reduction	
			%	Cost	%	Cost	%	Cost
Planning/Maps/Education/Non-CST		\$0	0%	\$0	0%	\$0	0%	\$0
Preliminary Engineering		\$0	0%	\$0	0%	\$0	0%	\$0
Environmental Cost		\$0	0%	\$0	0%	\$0	0%	\$0
Right of Way		\$0	0%	\$0	0%	\$0	0%	\$0
Utilities		\$0	0%	\$0	0%	\$0	0%	\$0
Construction Cost	\$ 1,977,273	\$1,901,224	80%	\$1,520,979	0%	\$0	20%	\$380,245
Construction Engineering Cost	\$							
Eligible In-Kind Contribution Value	\$							
Total Construction Value (sum of construction cost and in-kind value)								
Work by LG Subtotal		\$1,901,224	\$1,520,979				\$380,245	
Work Performed by the State (Local Participation paid up front by LG to TxDOT)								
Preliminary Engineering ¹		\$0		\$0	0%	\$0	0%	\$0
Environmental Cost ¹		\$0		\$0	0%	\$0	0%	\$0
Right of Way ³		\$0		\$0	0%	\$0	0%	\$0
Utilities ²		\$0	0%	\$0	0%	\$0	0%	\$0
Construction Cost ²	\$	\$0	0%	\$0	0%	\$0	0%	\$0
Eligible In-Kind Contribution Value	\$							
Total Construction Value (sum of construction cost and in-kind value)								
Work by State Subtotal		\$0	\$0		\$0		\$0	
Direct and Indirect State Costs Incurred for Review, Inspection, Administration & Oversight								

CSJ #	0908-33-107	Project Name:	South 14 th Walkability Project	AFA ID:	Z00003192
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Description of Project Costs to be Incurred	Total Project Cost Estimate	Federal Participation Includes percentage for TDC apportionment on MPO-selected projects where applicable		State Participation Includes authorized EDC amount		Local Government (LG) Participation Includes authorized EDC reduction	
		%	Cost	%	Cost	%	Cost
Preliminary Engineering ¹	\$42,778.00	80%	\$34,333.03	0%	\$0	20%	\$8,556.00
Environmental Cost ¹	\$28,518.00	80%	\$22,814.68	0%	\$0	20%	\$5,704
Right of Way ¹	\$8,556.00	80%	\$6,844.41	0%	\$0	20%	\$1,711
Utilities ¹	\$5,704.00	80%	\$4,562.94	0%	\$0	20%	\$1,141
Construction ²	\$199,628.00	80%	\$159,703.00	0%	\$0	20%	\$39,926.00
Direct State Costs Subtotal	\$285,184.00	80%	\$228,147.00	0%	\$0	20%	\$57,037.00
Indirect State Cost	\$0		\$0	100%	\$90,688.00		\$0
TOTAL PARTICIPATION	\$2,227,096.00		\$1,749,126.00		\$90,688.00		\$437,281.00
In-kind Contribution Credit Applied						0%	\$0
TOTAL REMAINING PARTICIPATION AFTER IN-KIND CONTRIBUTION							\$437,281.00

- The estimated total participation by Local Government is \$437,281, plus 100% of overruns.
- Total estimated payment by Local Government to State is \$57,037.
- ¹Local Government's first payment of \$17,111.00 is due to State within 30 days from execution of this contract.
- ²Local Government's second payment of \$39,926.00 is due to State within 60 days prior to the Construction contract being advertised for bids.
- ³If ROW is to be acquired by State, Local Government's share of property cost will be due prior to acquisition.
- The local match must be 20% or greater and may include eligible in-kind contributions, EDC adjustments, or TDCs if authorized as part of project selection.
- This is an estimate; the final amount of Local Government participation will be based on actual costs.
- Maximum federal TASA funds available for Project are \$1,749,126.00.

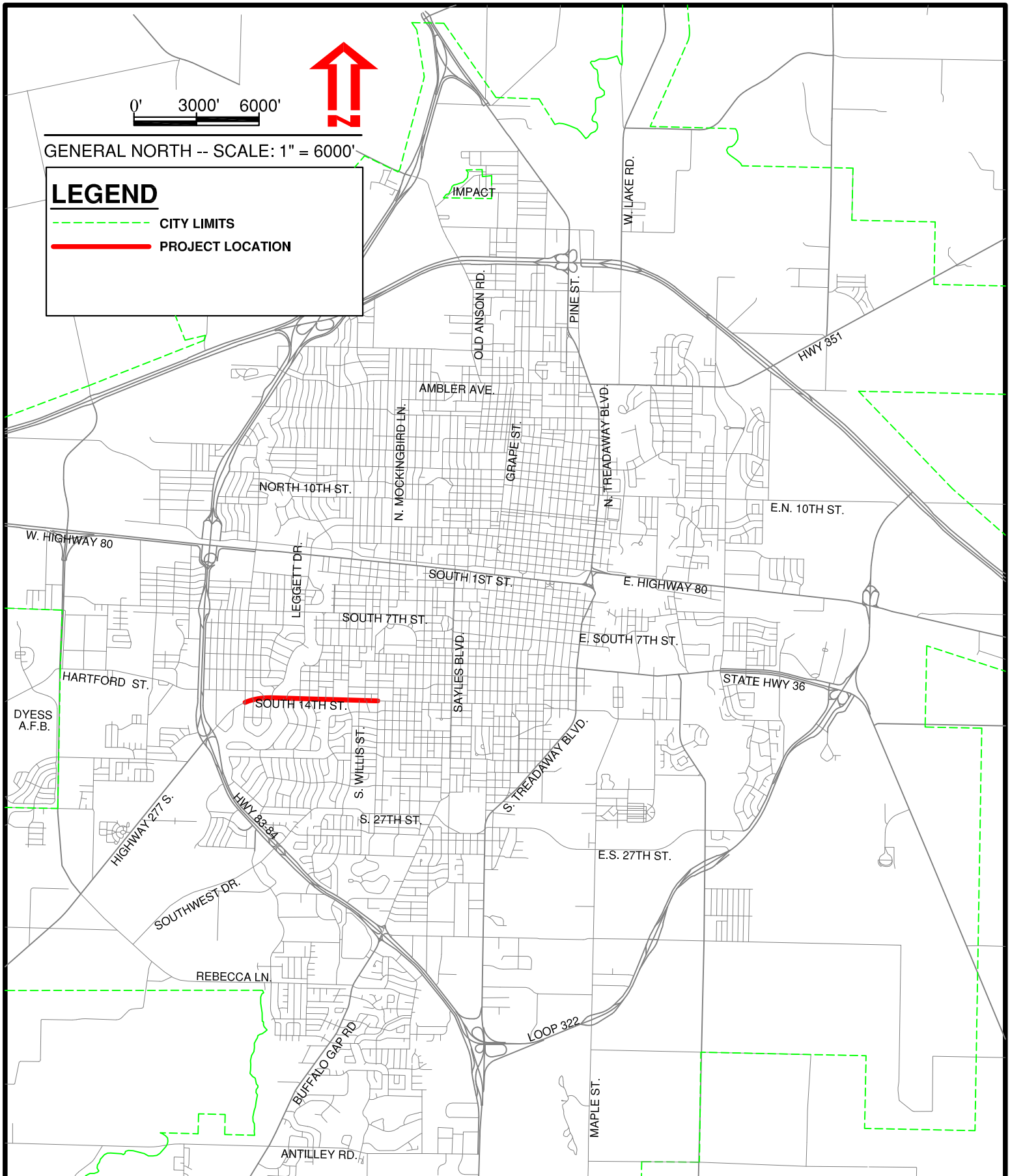
0' 3000' 6000'



GENERAL NORTH -- SCALE: 1" = 6000'

LEGEND

- CITY LIMITS
- PROJECT LOCATION



Sheet
1
of
1

CITY OF ABILENE, TEXAS
PUBLIC WORKS DEPARTMENT
ENGINEERING DIVISION

S 14TH STREET WALKABILITY PROJECT

Designed By: S. CHANDLER

Drawn By: T. MATTHEWS

Checked By: S. CHANDLER

Horizontal Scale: 1"=6000'

Vertical Scale: N.T.S.

Computer File Name:
Project Location Map

Date: JUNE 2022

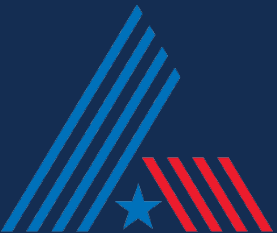
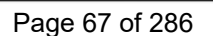
Agenda Item: Agreement with TxDOT for S 14th Street Walkability Project

**Resolution: Approval of TxDOT AFA –
CSJ#0908-33-107**

(Johnson)



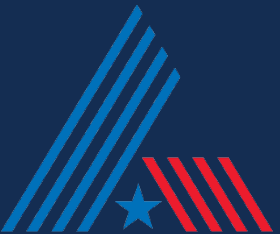
To
Barrow St



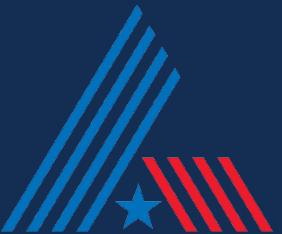
Agenda Item:

Agreement with TxDOT for S 14th Street Walkability Project

- Agreement between the City of Abilene and the Texas Department of Transportation to install pedestrian facilities along S 14th St from Pioneer Dr to Barrow St.
- Pedestrian facilities will include sidewalk, pedestrian traffic heads, pedestrian bridges, and all necessary infrastructure to support those items.
- This agreement allows for the construction of new pedestrian facilities at a fraction of the cost to the City of Abilene. The City's part is 20% of the total cost of construction or \$437,281.00 of the total \$2,227,096.00.



Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 6/23/2022

TO: Robert Hanna, City Manager

FROM: Max Johnson, Director of Public Works

SUBJECT: 6. Ordinance (First Reading): Receive a Report, Hold a Discussion and Take Action on Amending Chapter 18, "MOTOR VEHICLES AND TRAFFIC," ARTICLE XIII, "SCHEDULES," SECTION 18-286, "Decreased speed limits-School zones," of the Abilene Municipal Code to Add School Traffic Zones at Wylie East Elementary (*Max Johnson*)

GENERAL INFORMATION

The Ordinance Amendment is in response to an engineering study that recommends establishing a new school zone for Wylie East Elementary. This amendment will function in harmony with the Taylor County established school zone for Wylie East Junior High, and both the elementary school and the junior high are on Colony Hill Road.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

N/A

STAFF RECOMMENDATION

Approval

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Redline_Ord_Amend_School_Zones Wylie East Elementary
2. 2022.06.14 Maple-Colony Hill School Zone.Engineering Recommendation
3. Wylie East Elementary School Zone Presentation

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 18, “MOTOR VEHICLES AND TRAFFIC,” ARTICLE XIII, “SCHEDULES,” SECTION 18-286, “DECREASED SPEED LIMITS-SCHOOL ZONES,” OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING A PENALTY

WHEREAS, an engineering study has resulted in a recommendation for establishing a new school zone for Wylie East Elementary and Wylie East Junior High schools; and

WHEREAS, the City Code of Ordinance provides for decreased speed limits for established school zones; and

WHEREAS, there is a need to amend the City Code of Ordinances to implement the engineering recommended school zone additions.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 18, Article XIII, Section 18-286 of the Abilene Municipal Code be amended as set out in Exhibit “A”, attached hereto and made a part of this ordinance for all purposes.

PART 2: That if any provisions of any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way effect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force or effect.

PART 3: That any persons, firm, or corporation violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine in accordance with Chapter 1 (Section 1-9) of this Code. Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FIRST READING this 23rd day of June 2022.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 10th day of July, 2022, the same being more than 24 hours prior to a public hearing being held in the Council Chamber of City Hall in Abilene, Texas, at 8:30 a.m. on the 14th day of July, 2022, to permit the public to be heard.

PASSED ON SECOND AND FINAL READING this 14th day of July 2022.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

Exhibit A

Sec. 18-286. Decreased speed limits-School zones.

- (b) In accordance with the provisions of this chapter, and when traffic-control devices or signs are erected giving notice thereof, the prima facie speed limit shall be twenty-five (25) miles per hour for hours designated on school days, where school signs are posted or at any time when electrical control devices are in operation, on the following streets or portions of streets:

School	Street	Extent
Wylie East Elementary	Colony Hill Road	From Maple Street, east to the City Limits
Wylie East Elementary	Maple Street	From Colony Hill Road to Carriage Hills Parkway

Memorandum

To: Scott Chandler, P.E. – City Engineer (City of Abilene, Texas)
From: Chris Edwards, P.E.
CC: Tal Fillingim, P.E.; Chris Hartke, P.E.
Date: June 14, 2022
RE: **Maple Street/Colony Hill Road School Zone**



The purpose of this memorandum is to provide recommendations for the establishment of a school zone along Maple Street and Colony Hill Road to serve the Wylie East Elementary and Wylie East Junior High schools. The memorandum is being prepared by Teague Nall and Perkins, Inc. (tnp) at the request of the City of Abilene, Texas. Speed reduction, signage, and dimensions for the school zone are based on recommendations found in *TxDOT Report 0-5470-1: Speeds in School Zones - Appendix A: Guidelines for Traffic Control for School Areas*, the *Texas MUTCD (2011 Edition)*, and engineering judgment.

School speed limit zones are appropriate where school-age pedestrians are expected to cross the major roadway going to and from school, and where a school is adjacent to a high-speed thoroughfare. Depending on from which nearby neighborhood the students originate, they may be required to cross Colony Hill Road to reach East Wylie Junior High or East Wylie Elementary. While it is less likely students would have to cross Maple Street to reach the schools due to the lack of residential development on the west side of Maple Street, students do travel adjacent to the 40-mph thoroughfare. In addition, the East Wylie Elementary property abuts Maple Street, with two entrance drives for the school connecting to the thoroughfare. For these reasons, tnp believes a school speed limit zone is warranted on Maple Street and Colony Hill Road.

I. EXISTING INFORMATION

A. Streets

A summary of the streets within the proposed school zone is provided below.

Maple Street

Where it runs along the west side of the Wylie East Elementary School property, Maple Street is currently a two-lane asphalt road with bar ditches. It is identified in Abilene's Thoroughfare Plan as an arterial roadway, and an improvements project to widen the road to four lanes in the vicinity of the school is currently in the design phase. The posted speed limit on Maple Street is 40 mph.

Colony Hill Road (County Road 111-1)

Where it runs along the north side of the Wylie East Elementary School property, Colony Hill Road has been improved to a four-lane roadway. Within the city limits, the assumed speed limit for Colony Hill Road is 30 mph. Where it crosses out of Abilene city limits and runs along the south side of Wylie East Junior High, the road becomes CR 111-1. There it is currently a two-lane asphalt road with a concrete curb and gutter along the north edge of pavement and a bar ditch along the south. It is identified in Abilene's Thoroughfare Plan as an arterial roadway. The County recently placed a speed limit sign just west of Oldham Lane to set the speed limit between there and Maple Street at 25 mph. No speed

limit signs were found for verification, but the current speed limit on CR 111-1 east of Oldham Lane is believed to be 40 mph.

B. Schools

Wylie East Elementary School

Wylie East Elementary School resides on the southeast corner of the intersection of Maple Street and Colony Hill Road. The bell schedule for the school is 7:45 am to 3:10 pm.

Wylie East Junior High School

Wylie East Junior High School resides east of the city limit line on the north side of CR 111-1, approximately half a mile east of Maple Street. The bell schedule for the school, including tutorial periods, is 7:50 am to 3:35 pm. The first period tardy bell occurs at 8:20 am.

II. SIGNAGE AND STRIPING RECOMMENDATIONS

The types and sizes of school zone signage to be placed on Maple Street and Colony Hill Road/CR 111-1 are summarized in **Table 1**.

Sign	Sign Designation(s)	Maple Street			CR 111-1		
		Size (Inches)	Speed / Time	Quantity	Size (Inches)	Speed / Time	Quantity
Reduced School Speed Limit Ahead	S4-5	48x48	25	2	36x36	25	1
School Speed Limit Assembly	S4-3P	36x12	n/a	2	24x8	n/a	2
	R2-1	36x48	25	2	24x30	25	2
	S4-1P	36x18	7:15-8:30 AM 3:00-4:00 PM	2	24x10	7:15-8:30 AM 3:00-4:00 PM	2
	S7-1T	36x18	n/a	2	24x18	n/a	2
End School Zone Assembly	S5-2	36x48	n/a	2	24x30	n/a	1
	R2-1	36x48	40	2	24x30	40	1

Table 1: Recommended Signage

In addition to the school zone signage, a 12" wide solid white stripe crossing all lanes of traffic is recommended to mark the limits of the school speed limit zones.

The suggested school zone speed limits are based on the standard of reducing 85th percentile speeds below 55 mph by no more than 15 mph. The 85th percentile speed is typically the posted speed limit on a roadway. The reduced speed limit signage and the posted speed limit sign at the end of the school zone on CR 111-1 are based on an assumed 40 mph speed limit for CR 111-1. The desired speed limit for CR 111-1 should be verified with Taylor County, and the signage along Colony Hill Road and CR 111-1 coordinated and adjusted if necessary.

Tnp's recommended layout of the signage and striping for the school zone is shown on **Figure 1**, attached.

Please feel free to contact me if you have any questions or comments regarding this memorandum.

Sincerely,

tnp
teague nall & perkins



Chris Edwards, PE
Senior Engineer, Associate

 817.336.5773 main | 817.665.7111 direct | 817.713.8614 mobile

 5237 N. Riverside Drive, Suite 100 | Fort Worth, TX 76137

cedwards@tnpinc.com

Attachments

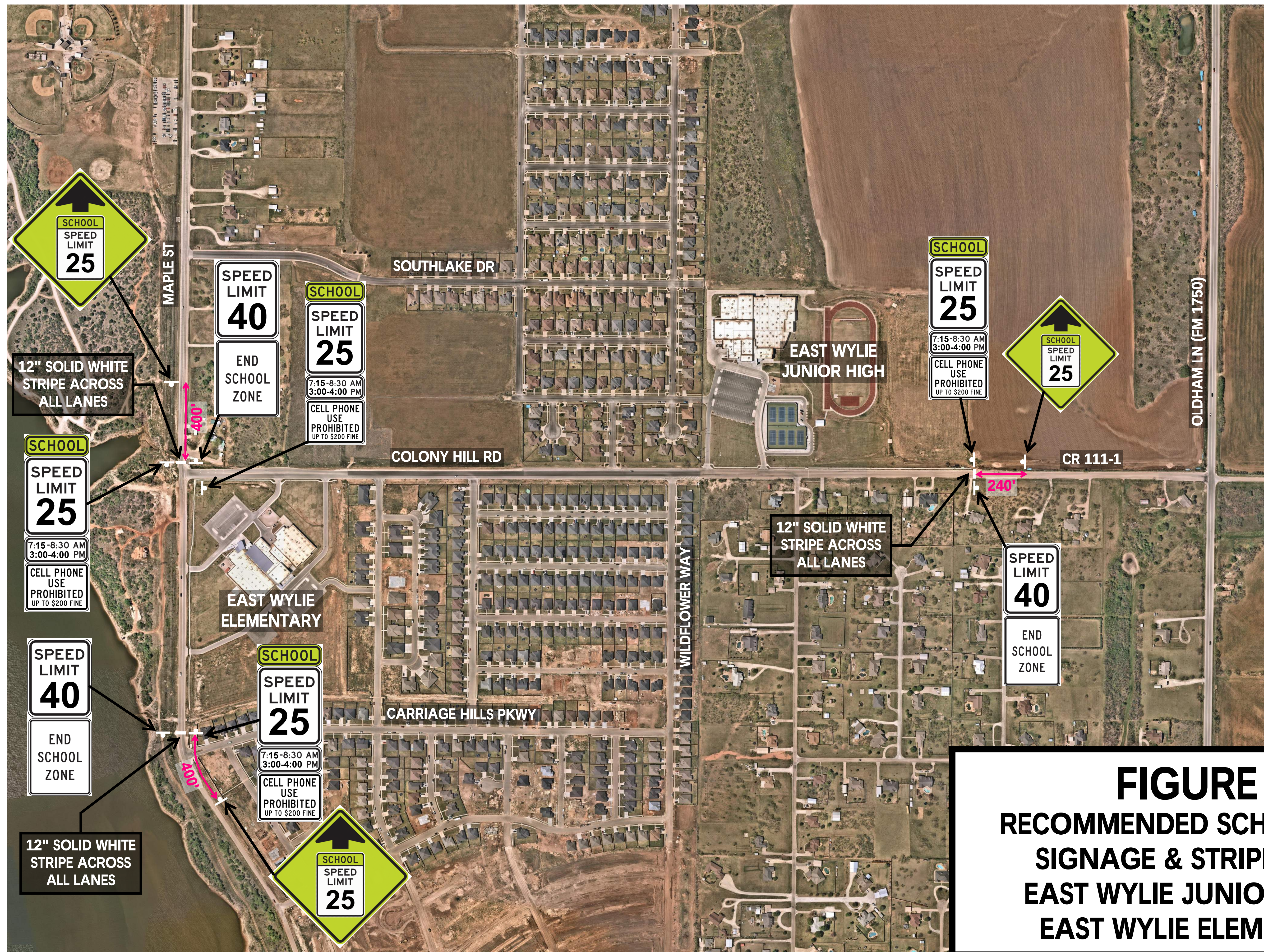


FIGURE 1
RECOMMENDED SCHOOL ZONE
SIGNAGE & STRIPING FOR
EAST WYLIE JUNIOR HIGH &
EAST WYLIE ELEMENTARY

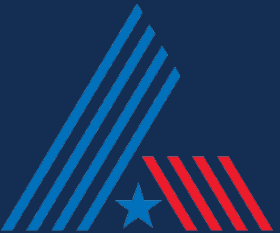
**AMENDING CHAPTER 18, “MOTOR VEHICLES AND
TRAFFIC,” ARTICLE XIII, “SCHEDULES,” SECTION 18-286,
“DECREASED SPEED LIMITS-SCHOOL ZONES,” OF THE
ABILENE MUNICIPAL CODE**

Max Johnson



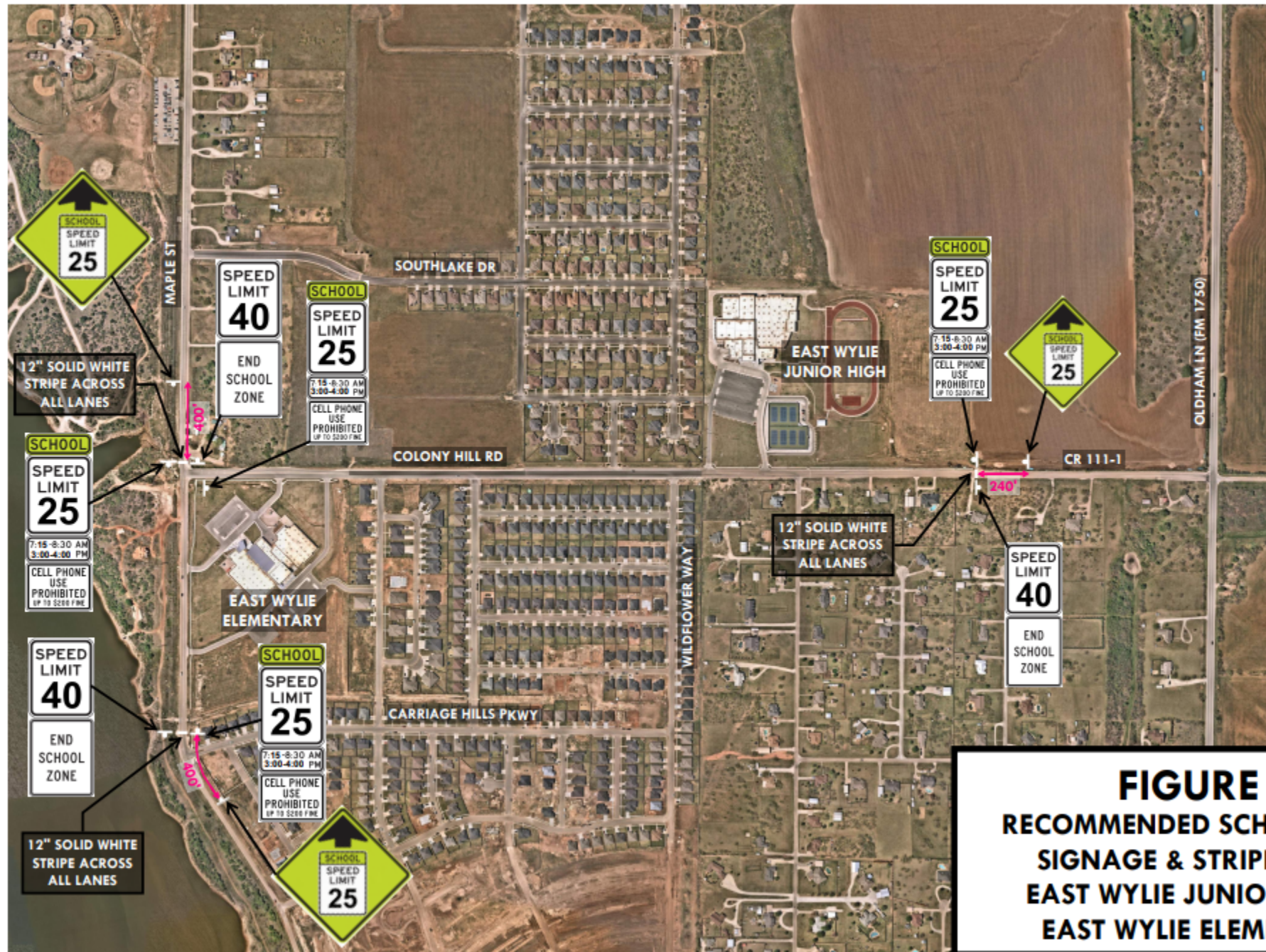
ORDINANCE AMENDMENT SECTION 18-286, “DECREASED SPEED LIMITS- SCHOOL ZONES”

- **The City of Abilene has received an Engineering Evaluation that recommends the creation of a School Zone for Wylie East Elementary School**
- **Based upon the Engineering Evaluation, there is a need to amend the City Code of Ordinances to implement the engineering recommended school zone additions**
- **The Proposed Ordinance will establish a 25 mph School Zone for Colony Hill Road from Maple Street to the City Limits, and establish a 25 mph School Zone for Maple Street from Colony Hill Road to Carriage Hills Parkway**

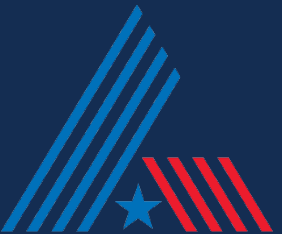




N.T.S.



Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 6/23/2022

TO: Robert Hanna, City Manager

FROM: Rodney Taylor, Director

SUBJECT: 7. Resolution: Receive a Report, Hold a Discussion and Take Action on awarding the bid for the Second Pressure Plane Supply Line - Phase 2 (Rodney Taylor)

GENERAL INFORMATION

Water Utilities staff is recommending that the Abilene City Council award the bid to MH Civil Constructors Inc. (MHCC) of Amarillo, TX in the amount of \$11,621,860.00 for Second Pressure Plane Supply Line-Phase 2, CB-2243 (Project). The bid was advertised in the Abilene Reporter News on May 8th and 15th, 2022. A total of four bids were received on June 2nd, 2022. The bids were evaluated using the "best value" competitive bidding method. City staff and the Project Engineer evaluated the bids and determined that the bid by MHCC provides the best value for the City of Abilene.

The bid packet included Additive Alternate Bid items A1 - A5 to substitute 869 linear feet of 30inch Bell and Spigot PVC pipe in place of the Base Bid for Fusible PVC Pipe. The alternate bid was in response to the volatility in the PVC pipe market at the time of bidding. It has been determined that 30inch Fusible PVC will not be available during the scheduled project period. Staff recommends awarding the Base Bid and Additive Alternate Bids A1, A2, A3, A4, and A5. The lowest Base Bid price is \$11,426,960.00. The total value of Additive Alternates A1 - A5 increases the Base Bid price by \$194,900. The total Base Bid including Additive Alternate Bid Items is \$11,621,860.00.

The bid item includes an "Owners Allowance" in the amount of \$500,000.00 for work directed in writing by the City. The owner's allowance is for work not required within the Plans and Specifications and may be used in the event additional (or less) work from that shown on the Plans and Specifications is required.

SPECIAL CONSIDERATIONS

The Second Pressure Plane Water Supply Line and pump station project was included in the 2010 and 2020 Water Distribution Master Plans. This large scale plan is to be done in multiple phases as described in the 2020 Five Year Capital Improvements Program. The greater project is for the

construction of a new 30" treated water pipeline to extend from the Buffalo Gap Elevated Storage Tank west and north to the Northwest Pump Station located within the Five Points Business Park. Phase I is nearing completion and is a 30inch PVC pipeline beginning at the BG EST and extending west and north to a connection with the Dyess 16" Water Supply Pipeline near Dub Wright Blvd and Jennings Drive. Phase 2 will continue the 30inch pipeline north along Dub Wright and west along a section of Military Drive before turning north to the Northwest Pump Station site. Phase 3 is currently under design and is the construction of a new second pressure plane pump station at the Northwest Pump Station site. These projects are necessary in order to resolve a Notice of Violation from the Texas Commission on Environmental Quality regarding low water pressure issues in the vicinity of the existing High Level Pump Station, and will significantly improve the capacity and reliability of water delivery to west and south Abilene.

FUNDING/FISCAL IMPACT

Funding for this project will utilize proceeds from the FY22 Certificates of Obligations for water utility capital projects.

STAFF RECOMMENDATION

Staff recommends that the Abilene City Council award the bid for Second Pressure Plane Supply Line - Phase 2 to MH Civil Constructors, Inc. In the amount of \$11,621,860.00.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. WrittenResolution-WtrDpt-Award Bid-MH Civil-2nd PP Supply Line P2-6-23-2022
2. Letter of Recommendation-Bid Tab-2nd PP Supply Line P2-MH Civil-6-23-2022
3. Contract-MH CIVIL-2nd PP SL-P2-6-23-2022
4. Presentation-Award Bid-MH Civil Constructors-Second Pressure Plane Supply Line-Phase 2-6-23-2022
5. Best Value Evaluation-2nd PP Supply Line-Phase 2-6-23-2022

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
AWARDING THE BID TO MH CIVIL CONSTRUCTORS, INC. FOR THE SECOND
PRESSURE PLANE SUPPLY LINE – PHASE 2 PROJECT.**

WHEREAS, the City of Abilene (City) owns and operates a Public Water Supply System that includes three water treatment plants and the water distribution system; and

WHEREAS, the Texas Commission on Environmental Quality has issued a Notice of Violation due to the low pressure conditions existing upstream of the existing High Level Pump Station and for which cannot be reasonably resolved by modifying the pump station and thus requiring major infrastructure improvements in west Abilene to resolve that issue; and

WHEREAS, Jacob and Martin, LLC (JM) was hired to provide plans and contract documents, bidding assistance, general project supervision, and contract administration for the needed improvements for the Second Pressure Plane Water Supply Line-Phase 2; and

WHEREAS, MH Civil Constructors Inc. (MHCC) submitted the lowest priced qualifying bid in the amount of \$11,621,860.00, and JM has evaluated the bids for best value criteria and for conformity with the advertisement for bids and does recommend awarding the bid to MHCC in the amount of \$11,621,860.00; and

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

That the City Manager is authorized to execute a construction contract with MH Civil Constructors, Inc. for the Second Pressure Plane Supply Line-Phase 2 in the amount of \$11,621,860.00.

ADOPTED this 23rd day of June, 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley E. Smith, City Attorney



INTEGRITY
EXCELLENCE
TRUST

June 7, 2022

Mr. Rodney Taylor
Director of Water Utilities
City of Abilene
P.O. Box 60
Abilene, Texas 79604

Re: Second Pressure Plane Supply Line – Phase 2
Letter of Recommendation for Award

Sent: Via Email

Dear Mr. Taylor:

On June 2, 2022, the City of Abilene received bids for the Second Pressure Plane Supply Line – Phase 2 Project. Four bids were received for this project. A bid tabulation sheet summarizing the bids is included as an attachment to this letter. The four bids have been evaluated based on the “Best Value” criteria included in the Contract Documents. The bids included a base bid and five additive alternate bid items. Based on our evaluation of the bids it is our conclusion that MH Civil Constructors, Inc. provides the “Best Value” competitive bid at a contract amount of \$11,621,860.00. The recommended contract amount includes the five additive alternate bid items as shown on the attached bid tabulation.

Jacob and Martin has evaluated the MH Civil Constructors bid for conformity with the Contract Documents and checked their references. It is recommended that the contract be awarded to MH Civil Constructors, Inc. for the contract amount of \$11,621,860.00. If the Water Department and City Council agrees with the recommendation for award, Jacob and Martin will prepare contract documents for execution by the Contractor and the City. Feel free to contact me if you have any questions.

Sincerely,

Kirt Harle, P.E.

JACOB | MARTIN



325.695.1070
817.594.9880



info@jacobmartin.com
www.jacobmartin.com



3465 Curry Lane
Abilene, TX 76906

1508 Santa Fe, Suite 203
Weatherford, TX 76086

TBPE Firm #: 2448

TBAE Firm #: BR 2261

TBPLS Firm #: 10024300 – Abilene

TBPLS Firm #: 10193992 - Weatherford

Bid Tabulation

Engineer: Jacob & Martin, LLC
Abilene, Texas

				MH Civil Constructors, Inc.		Western Municipal Construction of TX, LLC		Robert Wyatt Contracting		S.J. Louis Construction of Texas, Ltd.	
				621 Sixth Avenue		402 Gulf Ave.		3575 Lone Star Cir., Suite 201		520 S. 6th Ave	
				Amarillo, TX 79105		Justin, Texas 76247		Fort Worth, TX 76177		Mansfield, TX 76063	
Item #	Item Description	Quantity	Unit	Unit Price	Total	Unit Price	Total	Unit Price	Total	Unit Price	Total
1	Mobilization, Bonding, and Insurance	1	LS	\$ 421,555.00	\$ 421,555.00	\$ 500,000.00	\$ 500,000.00	\$ 750,000.00	\$ 750,000.00	\$ 100,000.00	\$ 100,000.00
2	30" DR21 C900 PVC WL	23080	LF	\$ 372.00	\$ 8,585,760.00	\$ 367.00	\$ 8,470,360.00	\$ 375.00	\$ 8,655,000.00	\$ 422.00	\$ 9,739,760.00
3	6" DR18 C900 PVC WL	70	LF	\$ 150.00	\$ 10,500.00	\$ 45.00	\$ 3,150.00	\$ 173.29	\$ 12,130.30	\$ 162.00	\$ 11,340.00
4	30" Slick Bore (30" bell and spigot PVC carrier pipe bid as separate item)	265	LF	\$ 450.00	\$ 119,250.00	\$ 300.00	\$ 79,500.00	\$ 1,500.00	\$ 397,500.00	\$ 1,305.00	\$ 345,825.00
5	UPRR and US Hwy 80 Bore and Encasement: 36" Jack and Bore with 9/16" Steel Encasement and 30" fusible PVC carrier pipe	360	LF	\$ 1,600.00	\$ 576,000.00	\$ 1,500.00	\$ 540,000.00	\$ 1,650.00	\$ 594,000.00	\$ 1,547.00	\$ 556,920.00
6	Arnold Blvd. / FM 3438 Bore and Encasement: 36" Jack and Bore with 3/8" Steel Encasement and 30" fusible PVC carrier pipe	254	LF	\$ 1,600.00	\$ 406,400.00	\$ 1,500.00	\$ 381,000.00	\$ 1,725.00	\$ 438,150.00	\$ 1,532.00	\$ 389,128.00
7	Hartford Street Bore and Encasement: 36" Jack and Bore with 3/8" Steel Encasement and 30" fusible PVC carrier pipe	60	LF	\$ 1,600.00	\$ 96,000.00	\$ 1,500.00	\$ 90,000.00	\$ 3,000.00	\$ 180,000.00	\$ 1,532.00	\$ 91,920.00
8	Texas Avenue Bore and Encasement: 36" Jack and Bore with 3/8" Steel Encasement and 30" fusible PVC carrier pipe	95	LF	\$ 1,600.00	\$ 152,000.00	\$ 1,500.00	\$ 142,500.00	\$ 2,125.00	\$ 201,875.00	\$ 1,532.00	\$ 145,540.00
9	Dub Wright Blvd. / FM 3438 Bore and Encasement: 36" Jack and Bore with 3/8" Steel Encasement and 30" fusible PVC carrier pipe	100	LF	\$ 1,600.00	\$ 160,000.00	\$ 1,500.00	\$ 150,000.00	\$ 2,175.00	\$ 217,500.00	\$ 1,532.00	\$ 153,200.00
10	42" Diameter x 1/4" Thick Steel Casing for Sewer Line Crossings	60	LF	\$ 600.00	\$ 36,000.00	\$ 500.00	\$ 30,000.00	\$ 650.00	\$ 39,000.00	\$ 1,057.00	\$ 63,420.00
11	30" Water Line Connection	1	EA	\$ 10,000.00	\$ 10,000.00	\$ 19,000.00	\$ 19,000.00	\$ 2,500.00	\$ 2,500.00	\$ 15,700.00	\$ 15,700.00
12	12" Tapping Sleeve and 12" Tapping Valve	2	EA	\$ 10,000.00	\$ 20,000.00	\$ 19,000.00	\$ 38,000.00	\$ 10,000.00	\$ 20,000.00	\$ 22,300.00	\$ 44,600.00
13	30" Butterfly Valve and Box	4	EA	\$ 30,000.00	\$ 120,000.00	\$ 22,500.00	\$ 90,000.00	\$ 15,000.00	\$ 60,000.00	\$ 25,400.00	\$ 101,600.00
14	6" Gate Valve and Box	10	EA	\$ 3,000.00	\$ 30,000.00	\$ 2,700.00	\$ 27,000.00	\$ 2,500.00	\$ 25,000.00	\$ 2,100.00	\$ 21,000.00
15	6" Fire Hydrant	10	EA	\$ 6,000.00	\$ 60,000.00	\$ 5,800.00	\$ 58,000.00	\$ 6,000.00	\$ 60,000.00	\$ 8,800.00	\$ 88,000.00
16	Water Line Marker	9	EA	\$ 100.00	\$ 900.00	\$ 175.00	\$ 1,575.00	\$ 300.00	\$ 2,700.00	\$ 120.00	\$ 1,080.00
17	Gate Installation	3	EA	\$ 8,000.00	\$ 24,000.00	\$ 6,000.00	\$ 18,000.00	\$ 5,000.00	\$ 15,000.00	\$ 4,000.00	\$ 12,000.00
18	Barbed Wire Fence Replacement	540	LF	\$ 20.00	\$ 10,800.00	\$ 90.00	\$ 48,600.00	\$ 12.00	\$ 6,480.00	\$ 11.00	\$ 5,940.00
19	Flowable Fill Backfill	140	LF	\$ 160.00	\$ 22,400.00	\$ 160.00	\$ 22,400.00	\$ 300.00	\$ 42,000.00	\$ 200.00	\$ 28,000.00
20	Trench Safety	23080	LF	\$ 1.00	\$ 23,080.00	\$ 1.00	\$ 23,080.00	\$ 1.00	\$ 23,080.00	\$ 0.01	\$ 230.80
21	Detectable Tape and Tracer Wire	23150	LF	\$ 0.10	\$ 2,315.00	\$ 1.00	\$ 23,150.00	\$ 0.15	\$ 3,472.50	\$ 0.30	\$ 6,945.00
22	SWPPP and Erosion Control	1	LS	\$ 10,000.00	\$ 10,000.00	\$ 170,000.00	\$ 170,000.00	\$ 20,000.00	\$ 20,000.00	\$ 55,000.00	\$ 55,000.00
23	Traffic Control Plan	1	LS	\$ 30,000.00	\$ 30,000.00	\$ 100,000.00	\$ 100,000.00	\$ 20,000.00	\$ 20,000.00	\$ 25,600.00	\$ 25,600.00
24	Allowance for work directed and in writing by the City for legitimate Project related issues	1	LS	\$ 500,000.00	\$ 500,000.00	\$ 500,000.00	\$ 500,000.00	\$ 500,000.00	\$ 500,000.00	\$ 500,000.00	\$ 500,000.00
TOTAL BASE BID (Items 1 - 24)				\$ 11,426,960.00		\$ 11,525,315.00 *		\$ 12,285,387.80		\$ 12,502,748.80	

ADDITIVE ALTERNATE BID

Bid Item	Description	Est. Qty.	Unit	Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount
A1	UPRR and US Hwy 80 Bore and Encasement: 48" Jack and Bore with 9/16" Steel Encasement and 30" Bell and Spigot PVC carrier pipe with joint restraints (If chosen replaces Base Bid Item 5)	360	LF	\$ 2,000.00	\$ 720,000.00	\$ 1,900.00	\$ 684,000.00	\$ 1,630.00	\$ 586,800.00	\$ 1,788.00	\$ 643,680.00
A2	Arnold Blvd. / FM 3438 Bore and Encasement: 48" Jack and Bore with 3/8" Steel Encasement and 30" Bell and Spigot PVC carrier pipe with joint restraints (If chosen replaces Base Bid Item 6)	254	LF	\$ 1,700.00	\$ 431,800.00	\$ 1,825.00	\$ 463,550.00	\$ 1,690.00	\$ 429,260.00	\$ 1,655.00	\$ 420,370.00
A3	Hartford Street Bore and Encasement: 48" Jack and Bore with 3/8" Steel Encasement and 30" Bell and Spigot PVC carrier pipe with joint restraints (If chosen replaces Base Bid Item 7)	60	LF	\$ 1,700.00	\$ 102,000.00	\$ 2,020.00	\$ 121,200.00	\$ 2,325.00	\$ 139,500.00	\$ 1,655.00	\$ 99,300.00
A4	Texas Avenue Bore and Encasement: 48" Jack and Bore with 3/8" Steel Encasement and 30" Bell and Spigot PVC carrier pipe with joint restraints (If chosen replaces Base Bid Item 8)	95	LF	\$ 1,700.00	\$ 161,500.00	\$ 1,910.00	\$ 181,450.00	\$ 2,000.00	\$ 190,000.00	\$ 1,655.00	\$ 157,225.00
A5	Dub Wright Blvd. / FM 3438 Bore and Encasement: 48" Jack and Bore with 3/8" Steel Encasement and 30" Bell and Spigot PVC carrier pipe with joint restraints (If chosen replaces Base Bid Item 9)	100	LF	\$ 1,700.00	\$ 170,000.00	\$ 1,895.00	\$ 189,500.00	\$ 1,975.00	\$ 197,500.00	\$ 1,655.00	\$ 165,500.00
TOTAL ADDITIVE ALTERNATE BID (ITEMS A1-A5)				\$ 1,585,300.00		\$ 1,639,700.00		\$ 1,543,060.00		\$ 1,486,075.00	
TOTAL BID INCLUDING ADDITIVE ALTERNATES (BB ITEMS 1-24 + A1-A5, LESS BB ITEMS 5-9)				\$ 11,621,860.00		\$ 11,861,515.00		\$ 12,196,922.80		\$ 12,652,115.80	

(*) - Extension Error

CONSTRUCTION CONTRACT

BACKGROUND

THIS CONTRACT, made on the ____ day of _____, 20____, is between the City of Abilene, a Municipal Corporation of Taylor and Jones Counties, Texas ("City"), and MH Civil Constructors, Inc. of the City of Amarillo, State of Texas. ("Contractor").

The City recognizes a need for high quality construction work; the Contractor agrees to complete the project in return for payment.

THE AGREEMENT

1. Work and Consideration. The Contractor hereby agrees to commence and complete the construction of Work required in the Contract Documents – incorporated herein by reference – Second Pressure Plane Supply Line - Phase 2

All work to be performed will be completed in conformance with (1) Part I of the City of Abilene's Standard Specifications for Construction adopted September, 2006 with the attached amendments in these Contract Documents, and (2) the Technical Specifications and Plans attached to these Contract Documents. Technical Specifications and Plans attached to these Contract Documents control in the event of a conflict.

In consideration of this Work, the City will pay the Contractor the sum of \$11,621,860.00.

2. Timely Work. The Contractor must begin and fully complete Work in the days stated in the Notice to Proceed. The time allows for normal delays associated with weather conditions, crew coordination, etc. Time is of the essence, and liquidated damages as set forth in the General Conditions (Paragraph 16) apply for late Work.

3. Payment. If Performance and Payment Bonds are required, the City will pay Contractor according to the General Conditions (Paragraph 20). If Performance and Payment Bonds are not required, the City will pay Contractor according to the Instructions to Bidders.

4. No liens. No mechanic, contractor, subcontractor, supplier, or other person can or will contract for, or in any other manner have or acquire any lien upon the work of this Contract, or the land upon which it is situated. The laws of the State of Texas govern this Contract.

5. Venue. Venue for any legal proceeding is Taylor County, Texas.

6. Indemnity.

A. Definitions

For the purpose of this section the following definitions apply:

"City" shall mean all officers, agents and employees of the City of Abilene.

“Claims” shall mean all claims, liens, suits, demands, accusations, allegations, assertions, complaints, petitions, proceedings and causes of action of every kind and description brought for damages.

“Contractor” includes the corporation, company, partnership, or other entity, its owners, officers, and/or partners, and their agents, successors, and assigns.

“Contractor’s employees” shall mean any employees, officers, agents, subcontractors, licensee and invitees of Contractor.

“Damages” shall mean each and every injury, wound, hurt, harm, fee, damage, cost, expense, outlay, expenditure or loss of any and every nature, including but not limited to:

- (i) injury or damage to any property or right
- (ii) injury, damage, or death to any person or entity
- (iii) attorney’s fees, witness fees, expert witness fees and expenses, and
- (iv) all other costs and expenses of litigation

“Premise Defects” shall mean any defect, real or alleged, which now exists or which may hereafter arise upon the premises.

“Proven” shall mean that a court of competent jurisdiction has entered a final unappealable judgment on a claim adjudging an entity or person liable for a monetary judgment.

“Sole negligence” shall mean negligence of a party that is unmixed with the fault of any other person or entity.

B. Indemnity

The Contractor must indemnify, hold harmless, and defend the City from and against liability for any claims arising out of the Contractor's work and activities conducted in connection with this Contract.

The Contractor is an independent contractor and is not, with respect to its acts or omissions, an agent or employee of the City.

Contractor must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of Contractor’s employees while in the vicinity where the work is being done. The City is not liable or responsible for the negligence or intentional acts or omissions of the Contractor or Contractor’s employees.

The City assumes no responsibility or liability for damages which are directly or indirectly attributable to premise defects. Responsibility for all such defects is expressly assumed by the Contractor.

The City and Contractor must provide the other prompt and timely notice of any covered event which in any way affects or might affect the Contractor or City. The City has the right to compromise and defend the same to the extent of its own interests.

BOTH CITY AND CONTRACTOR EXPRESSLY INTEND THIS CONTRACT'S INDEMNITY PROVISION TO REQUIRE CONTRACTOR TO INDEMNIFY AND PROTECT THE CITY FROM THE CONSEQUENCES OF THE CITY'S OWN NEGLIGENCE WHILE CITY IS PARTICIPATING IN THIS CONTRACT, WHERE THAT NEGLIGENCE IS A CONCURRING CAUSE OF THE DAMAGES. THIS CONTRACT'S INDEMNITY PROVISION DOES NOT APPLY TO ANY CLAIM WHERE DAMAGE IS PROVEN TO RESULT FROM THE SOLE NEGLIGENCE OF THE CITY.

7. Insurance. The Special Conditions found in the City of Abilene's Standard Specifications for Construction adopted September, 2006, Part I, Division I, Item 3, contain the insurance requirements of this Contract.

8. Overcharges. The Contractor assigns to City any claims for overcharges related to this Contract which arise under antitrust laws of the United States, 15 U.S.C.A. Sec. 1 et seq, as amended.

9. Contract Interpretation. Any dispute about the Contract's meaning or application will be interpreted fairly and reasonably, and neither more strongly for or against either party.

10. Indebtedness to City. Contractor agrees that no payments owed by him of any nature whatsoever to the City, including payment in advance for service charges or any sums of any character whatsoever, shall become delinquent or in arrears.

The City will not knowingly award contracts for goods or services to any Bidder in arrears to the City for any debt, claim, demand, or account whatsoever, including taxes, penalty or interest. Contractor is responsible for ensuring that no indebtedness exists.

Section 130 of the City Charter authorizes the City to counterclaim and offset any debt, claim, demand or account owed by the City to any person, firm or corporation in arrears to the City for any debt, claim, demand or account of any nature whatsoever, including taxes, penalty or interest.

11. Boycott of Israel. In accordance with Chapter 2270, Texas Government Code, a governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.

This section only applies to a contract that: (a) is between a governmental entity and a company with 10 or more full-time employees, and (b) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity. Additionally, "company" does not include a sole proprietorship.

If this section is applicable, the signatory executing this contract on behalf of company verifies that the company does not boycott Israel and will not boycott Israel during the term of this contract.

12. Contract Execution. The Contractor must sign the Contract first, with any necessary attestation and seal. The City Attorney or designee must review the Contract, and approve or disapprove it. If approved, the City's authorized agent will then sign. The City Secretary must keep a signed original in the City Secretary's Office.

13. Contract Copies. Each of the two executed copies is an original.

IN WITNESS HERE OF, the parties hereto have executed this contract:

CONTRACTOR

Name of Contractor:

MH Civil Constructors, Inc.

Signature

Saul B. Hernandez

Name – Typed or Printed

General Manager

Title – Typed or Printed

Business Address: 1100 S Fillmore St, Ste 105

Amarillo, TX 79101

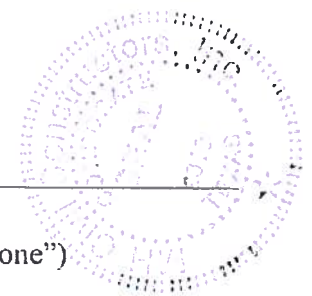
Business Phone No. (806) 367-6043

Federal Tax I.D. # 27-2016347

ATTEST: (If Corporation)

Corporate Seal

(If none, write "None")



CITY OF ABILENE

Authorized Signature

APPROVED:

City Attorney

ATTEST:

City Secretary

Seal

Award the bid to MH Civil Constructors, Inc.
for the
Second Pressure Plane Supply Line-Phase 2 Project.

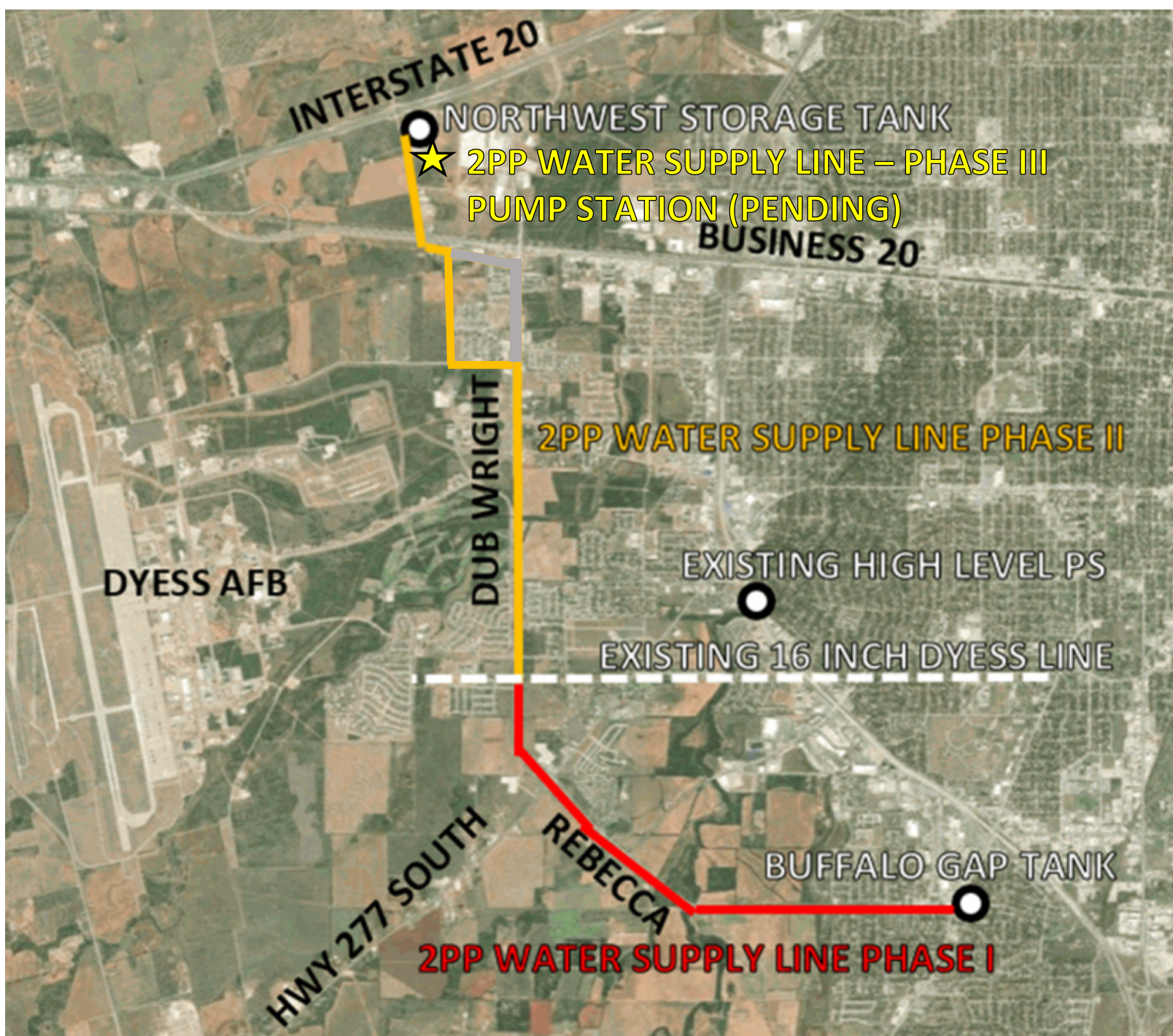


- MH Civil Constructors Inc. (MHCC) submitted the lowest priced bid of \$11,621,860.00, and City staff and the design engineer have determined that the low bid is the best value for the City of Abilene.
- Due to market volatility the bid packet included an Additive Alternate Bid substituting Restrained Bell and Spigot PVC Pipe in place of Fusible PVC Pipe. Fusible PVC is the preferred piping material and has a lower bid price for the installed product. However, Fusible PVC is not available during the project schedule due to market conditions. The Base Bid price is \$11,426,960.00. The Additive Alternate Bid Items increase the bid award price by \$194,900.00.
- The recommended lowest priced bid includes the Base Bid and Additive Alternate Bid Items A1, A2, A3, A4 and A5.



- The bid item includes an “Owner’s Allowance” in the amount of \$500,000 for work directed in writing by the City. The owner’s allowance is for work not required within the Plans and Specifications and may be used in the event additional (or less) work from that shown on the Plans or Specifications is required.
- The Second Pressure Plane Supply Line-Phase 2 project is the installation of a 30inch pipeline beginning near Jennings Drive (end of Phase 1 Project) and extending north along Dub Wright Blvd, west along Military Drive, then north to the Northwest Pump Station Site on Marigold Street.
- The construction of the Second Pressure Plane Supply Line-Phase 1 is nearing completion.
- The design of the Second Pressure Plane Supply Line-Phase 3 Pump Station is underway.





Award the bid to MH Civil Constructors, Inc.
for the
Second Pressure Plane Supply Line-Phase 2 Project.

Questions?



City of Abilene
Second Pressure Plane Supply Line - Phase 2
Best Value Criteria Evaluation Worksheet

Criteria	Bid Offerors			
	MH Civil Constructors, Inc.	Western Municipal Construction of Texas, LLC	Robert Wyatt Contracting	S.J. Louis Construction of Texas, Ltd.
Price	Base Bid = \$11,426,960.00 Alternate Bid = \$11,621,860.00	Base Bid = \$11,525,315.00 Alternate Bid = \$11,861,515.00	Base Bid = \$12,285,387.80 Alternate Bid = \$12,196,922.80	Base Bid = \$12,502,748.80 Alternate Bid = \$12,652,115.80
Offeror's Experience and Reputation	Organized in February of 2010, based out of Amarillo with 22 years of utility installation experience and good reputation. Contractor has performed the installation of a few utility replacement projects of similar size and scope.	Company organized in February 2019 (3 years).	Contractor did not provide statement of qualifications with their bid submittal	Organized in October of 1998, based out of Mansfield, Texas with 24 years of utility installation experience and good reputation. Contractor has performed the installation of several utility installation projects of similar size and scope.
Quality of the offeror's goods or services	Overall good history of services			Overall good history of services
Impact on the ability of the City of Abilene to comply with rules relating to historically underutilized business	Does not offer historically underutilized business opportunities	Does not offer historically underutilized business opportunities		Does not offer historically underutilized business opportunities
Offeror's safety record	Overall good safety record	Overall good safety record		Overall good safety record
Offeror's proposed personnel	Proposing to have 52 total employees dedicated to the project not including subcontractors	Proposing to have 25 total employees dedicated to the project not including subcontractors		Proposing to have 15-18 total employees dedicated to the project not including subcontractors
Offeror's past working relationship with the City of Abilene	Have a <u>brief</u> (one project) but good relationship working with the City on utility installation projects	Have a <u>brief</u> (one project) but good relationship working with the City on utility installation projects		Has no history of working with City
Range of value of previous contracts	\$220,500.00 - \$15,000,000.00	\$177,607.00- \$7,295,724.00		\$288,500.00 - \$50,794,269.14
Largest Water Line Installation Listed	20-inch water line	30-inch water line		108-inch water line



**City Council
Agenda Memo**

City Council Meeting Date: 6/23/2022

TO: Robert Hanna, City Manager

FROM: Rodney Taylor, Director

SUBJECT: 8. Ordinance (First Reading): Receive a Report, Hold a Discussion and Take Action on an Ordinance amending Chapter 32 "Utilities", Article VI "Water Conservation Plan", of the Abilene Municipal Code by amending Sections 32-140, 32-141, 32-142, 32-143, 32-144, 32-145, and 32-146, as set out below, providing a severability clause, and declaring a penalty (*Rodney Taylor*)

GENERAL INFORMATION

Water Utilities staff is requesting that the Abilene City Council approve on first reading an Ordinance amending Chapter 32 "Utilities", Article VI "Water Conservation Plan", of the Abilene Municipal Code by amending Section 32-140 Declaration of Policy, Section 32-141 Authorization, Section 32-142 Application, Section 32-143 Regional Water Planning Groups; Public Involvement and Education, Section 32-144 Year Round Water Use Management, Section 32-145 Water Conservation Stages, and Section 32-146 Target Water Use Goals.

SPECIAL CONSIDERATIONS

On July 23, 2020 the Abilene City Council approved on final reading the amendments to Abilene Municipal Code Chapter 32 "Utilities", Article VI "Water Conservation Plan" incorporating certain elements in accordance with 30 Texas Administrative Code Chapter 288 Subchapter A Water Conservation Plans and Subchapter B Drought Contingency Plans. The current version and the proposed version of Article VI meet the minimum requirements of Subchapter A, Subsection 288.2 Water Conservation Plans for Municipal Uses by Public Water Suppliers and Subchapter 288.5 Water Conservation Plans for Wholesale Water Suppliers.

The current Water Conservation Plan utilizes the water surface elevation of Lake Fort Phantom Hill for determining the appropriate water conservation measures to be implemented during normal and drought conditions. The City of Abilene hired qualified Professional Engineers to model and evaluate the City's water supply resources from the perspective of drought endurance and make recommendations for improving the effectiveness of the Water Conservation Plan. The Engineer's recommend utilizing the combined available capacities of Hubbard Creek Lake and Lake Fort Phantom Hill as the more effective trigger levels for the initiation or termination of each drought

response stage. These recommended ordinance amendments implement the new trigger levels, authorize the City Manager to implement the plan, and make other minor edits to the existing ordinance language. The following is a brief description of the proposed edits. The attachment Exhibit A (Redline) specifically describes each deletion and insertion.

Section 32-140. Declaration of Policy: Minor edits for clarification.

Sec. 32.141. Authorization: Authorizing the City Manager to implement the plan, and delete the word “phase”.

Sec. 32.142. Application: Minor edits for clarification and adding a paragraph describing the basis for utilizing the combined available capacity as the water conservation triggers.

Sec. 32.143. Regional Water Planning and Public Involvement and Education: Minor edits for clarification

Sec 32-144. Year Round Water Use Management: Implementing the new water conservation triggers.

Section 32-145. Water Conservation Stages. Implementing new parameters for water conservation and peak pumping event triggers, edits aligning the City Manager's implementation authority with Section 32-141, and other minor edits for clarification.

Section 32-146. Target Water Use Goals: Edits to align goals with peak pumping triggers of Section 32-145.

FUNDING/FISCAL IMPACT

NA

STAFF RECOMMENDATION

Staff recommends that the Abilene City Council approve the ordinance amending Chapter 32, Article IV "Water Conservation Plan" to implement new trigger levels, authorizing the City Manager to implement the plan, and make other minor edits to the existing ordinance language as described above.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. ORDINANCE-Chapter 32 Utilities-Article VI Water Conservation Plan-new triggers-6-23-2022
2. Exhibit A-Clean-City of Abilene WCP Amendment-Revised Triggers-First Reading-6-23-2022
3. Exhibit A-Redline-City of Abilene WCP Amendment-Revised Triggers-First Reading-6-

- 23-2022
4. Presentation-Ordinance Chapter 32 Article VI Water Conservation Plan-New Triggers-
First Reading-6-23-2022

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 32, “UTILITIES”, ARTICLE VI, “WATER CONSERVATION PLAN” OF THE ABILENE MUNICIPAL CODE BY AMENDING SECTION 32-140 “DECLARATION OF POLICY”, SECTION 32-141 “AUTHORIZATION”, SECTION 32-142 “APPLICATION”, SECTION 32-143 “REGIONAL WATER PLANNING AND PUBLIC INVOLVEMENT AND EDUCATION”, SECTION 32-144 “YEAR ROUND WATER USE MANAGEMENT”, SECTION 32-145 “WATER CONSERVATION STAGES”, AND SECTION 32-146 “TARGET WATER USE GOALS”, AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING A PENALTY

WHEREAS, Article VI of Chapter 32 of the City Code of Ordinances regulates and restricts the delivery and consumption of water as necessary to minimize the adverse impacts of water supply shortages or other water supply emergency conditions; and

WHEREAS, the City of Abilene hired qualified Professional Engineers to model and evaluate the City’s water supply resources from the perspective of drought endurance and make recommendations for improving the effectiveness of the Water Conservation Plan; and

WHEREAS, Article VI utilizes the water surface elevation of Lake Fort Phantom Hill for determining the appropriate water conservation measures to be implemented during normal and drought conditions, and the Professional Engineer’s recommend utilizing the combined available capacities of Hubbard Creek Lake and Lake Fort Phantom Hill as the more effective trigger levels for the initiation or termination of each drought response stage; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 32, “Utilities”, Article VI “Water Conservation Plan” be amended by amending Section 32-140, Section 32-141, Section 32-142, Section 32-143, Section 32-144, Section 32-145, and Section 32-146 as set out in Exhibit “A”, attached hereto and made a part of this ordinance for all purposes.

PART 2: That if the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not effect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.

PART 3: That any person, firm, or corporation violating the provisions of this Ordinance, shall be subject to escalating enforcement actions and schedule of penalties described in this Article VI.

Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FIRST READING this 23rd day of June, A.D., 2022.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 10th day of July, 2022, the same being more than 24 hours prior to a public hearing being held in the Council Chamber of City Hall in Abilene, Texas, at 8:30 a.m. on the 14th day of July, 2022, to permit the public to be heard.

PASSED ON SECOND AND FINAL READING this 14th day of July, A.D., 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley E. Smith, City Attorney

EXHIBIT A

CHAPTER 32 UTILITIES

ARTICLE VI. WATER CONSERVATION PLAN

DIVISION 1 GENERALLY

Sec. 32-140. Declaration of Policy

In order to conserve the available water supply and protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire prevention and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, the City of Abilene (the City) hereby adopts the following regulations and restrictions on the delivery and consumption of water.

Water uses regulated or prohibited under this Water Conservation Plan (the Plan) are considered to be non-essential and continuation of such uses during times of water shortage or other emergency water supply conditions are deemed to constitute a waste of water which subjects the offender(s) to penalties as defined in Sections 32-147 through 32-155 of this Plan.

No person shall make, cause, use or permit the use of water from the City of Abilene Water Utility System for residential, commercial, industrial, agricultural, wholesale, governmental or any other purpose in a manner contrary to provisions of this Plan or in an amount in excess of that use permitted by the water conservation stage in effect pursuant to action taken by the Mayor or his/her designee in accordance with the provisions of this Plan.

Sec. 32-141. Authorization

The Mayor, Mayor Pro Tempore, and the City Manager are hereby authorized to exercise those powers considered to be reasonable or necessary for the protection of persons or property in assessing the current state of our water supply and to implement or terminate any stage or portion of the Water Conservation Plan. In the event that the triggering criteria specified in Section 32-145 of the Plan have been met for Stage 3-Water Emergency, or Stage 4- Water Crisis water shortage conditions, the City Manager is hereby authorized to initiate allocation of water supplies on a pro rata basis in accordance with Texas Water Code §11.039. Implementation and termination of any stage may occur, but is not mandated to occur, when conditions warrant.

Sec. 32-142. Application

The provisions of this Plan shall apply to persons, customers, and property utilizing the City Water Utility System wherever situated, including customers such as water supply corporations, and any others that receive water from the City of Abilene on a contract basis. The City shall include a provision in every wholesale water contract entered into or renewed, including contract extensions, that in case of shortage of water in the City's water supply, the water to be distributed shall be divided by the City in accordance with Texas Water Code §11.039 among all users pro rata, according to the amount each may be entitled to, so that preference is given to no one and everyone suffers alike.

The City of Abilene contracted with qualified Professional Engineers to model and evaluate the City's water supply resources from the perspective of drought endurance. It was determined that the combined

available capacity from Hubbard Creek Reservoir (HCR) and Lake Fort Phantom Hill (LPFH) is the best indicator of the severity of Abilene's regional drought conditions. The Water Conservation triggers are primarily based on the combined available capacity of those two water supply sources.

The City utilizes a variety of alternative water sources including an extensive nonpotable reuse program, and an indirect potable water reuse system. The City encourages its customers to utilize alternative water sources during periods of water shortage. These water use restrictions do not apply to the utilization of alternative water sources including nonpotable water and groundwater (well water). Customers using water from private groundwater wells on days other than those designated in this Plan, or those watering from private groundwater wells during the hours of 10:00 a.m. and 6:00 p.m., must post a sign stating "WELL WATER." The sign must be properly sized and posted so it is visible from the street. The city strongly encourages the use of alternative water sources from groundwater for landscape purposes.

These water use restrictions do apply to those persons without a reclaimed water contract who divert raw surface water from Lake Kirby or Lake Fort Phantom Hill for landscape irrigation. Whenever the term or reference to water, or potable water or similar and like words are used in this "water conservation plan," it shall be understood to include the use of raw surface water from Lake Kirby and Lake Fort Phantom Hill for landscape irrigation.

These water use restrictions do apply to the time for the use of treated wastewater (reclaimed water) for landscape irrigation. Use of reclaimed water or raw water under a reclaimed water contract for landscape irrigation is only allowed during the hours of 12:00 midnight to 10:00 a.m., and from 6:00 p.m. until 12:00 midnight. All other uses of reclaimed water shall be in accordance with Title 30 Texas Administrative Code, chapter 210 and the City of Abilene's Authorization No. R10334-004, as amended.

Sec. 32-143. Regional Water Planning Groups and Public Involvement and Education

Sec. 32-143.1 Coordination with Regional Planning Groups

The service area of the City is currently located within the Brazos G Regional Water Planning Group. The City will cooperate and provide information regarding the Plan to applicable regional water planning groups.

Sec. 32-143.2 Public Involvement

The adoption of this Plan and any amendments will provide for public input at a public hearing held in conjunction with one of the readings of said ordinance enacting the Plan or amendments thereto.

Sec. 32-143.3 Public Education of Action on Water Conservation Stages

In conjunction with Section 32-141, the initiation and termination of any drought response stage (Water Conservation Stage) shall be announced to the public and wholesale customers at a media conference, and shall become effective immediately upon such announcement. In addition to public announcements of initiation and termination of a Water Conservation Stage and Year Round Water Use Management information, continuing public education and information regarding the Plan shall be publicized via posting on the City's website.

DIVISION 2 WATER CONSERVATION PLAN PROCEDURES

Sec. 32-144. Year Round Water Use Management

To conserve water supplies available to the City of Abilene, Year Round Water Use Management shall be implemented to restrict certain potable water use activities by all customers of the City of Abilene Water Utility System.

When conditions warrant, pursuant to Sec 32-141, the Water Conservation Plan will be implemented in accordance with the applicable provisions of this Plan.

1. Year Round Water Use Management. The following year round provisions shall apply to all potable water customers of the City of Abilene Water Utility System:

- a. Watering Days: Customers are encouraged to conserve water by watering their lawn areas only once every seven (7) days on one of their designated watering days.

A customer's watering day is determined by the last digit of the house number or property address. Multi-unit properties will use the lowest address number. Customers on rural routes will use the last number of their post office box number or their route number if they do not have a post office box number. Customers at Ft. Phantom Lake will use the last number of their lake lot. Customers in trailer parks will use the last number of their lot number.

When combined storage in Hubbard Creek Reservoir and Lake Fort Phantom Hill is above 50%, the following three (3) day a week watering schedule applies:

Designated Watering Days:

Wednesday, Friday, Sunday	Odd numbered addresses
Tuesday, Thursday, Saturday	Even numbered addresses
Monday, Wednesday, Friday	Industrial, commercial, government customers, public and private schools and universities

When combined storage in Hubbard Creek Reservoir and Lake Fort Phantom Hill is between 40-50%, the following two (2) day a week watering schedule applies:

Designated Watering Days:

Thursday, Sunday	Odd numbered addresses
Tuesday, Saturday	Even numbered addresses
Monday, Friday	Industrial, commercial, government customers, public and private schools and universities

- b. Watering Times:

Watering by all commercial, industrial, and residential customers utilizing individual sprinklers, or sprinkler systems, on lawns, gardens, landscaped areas, trees, shrubs or other plants is prohibited except on designated day(s) and then only during the hours of 12:00 midnight to 10:00 am and from 6:00 pm until 12:00 midnight.

- c. Watering of gardens, flowerbeds, trees and shrubs is permitted at any time of any day if:
- i. A garden hose is used and is held in the hand during the duration of the irrigation event,
or

- ii. A faucet-filled container of five (5) gallons or less is used, or
 - iii. A drip irrigation system such as a soaker hose, deep root water system, or bubbler is used. For the purpose of this section a drip irrigation system is defined as an irrigation device or system designed to emit water at low volumes and low pressures directly onto soil surface or below soil surface without airborne streams or droplets.
- d. Irrigation of lawns is permitted at any time on any day if:
 - i. A garden hose is used and is held in the hand during the duration of the irrigation event, or
 - ii. A faucet-filled container of five (5) gallons or less is used.
 - iii. A drip irrigation system shall not be used to irrigate lawns except on designated days and at designated times.
- e. New lawns that have been seeded (not to include re-seeding or overseeding existing turf), sodded or mulched may be watered daily for eight (8) minutes once during each of the following periods: 11:00 a.m. to 1:00 p.m.; 2:00 p.m. to 4:00 p.m.; 5:00 p.m. to 7:00 p.m.; and at regular intervals between 9:00 p.m. and 10:00 a.m. for a maximum of three (3) weeks. To qualify under this section, new lawns are those installed in conjunction with the construction of a new residence and for a period six (6) months thereafter or the re-tilling of an area equaling at least fifty (50) percent of an existing yard.
- f. Water Wasting. The following uses of water are defined as “waste of water” and are absolutely prohibited:
 - i. Allowing water to run off a property through the street, gutter, ditch, alley, or drain for more than seventy-five (75) feet from the downgrade of the property line;
 - ii. Failure to repair a controllable leak, including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet.
 - iii. Operating a permanently installed irrigation system with a broken sprinkler head; a sprinkler head that is spraying over a street or parking lot because it is out of adjustment; or a sprinkler head that is misting due to high pressure.
- g. Use of water from fire hydrants shall be limited to firefighting activities or other activities necessary to maintain public health, safety, and welfare. The Director of Water Utilities will review written requests on a case-by-case basis for the purchase and withdrawal of fire hydrants for land development and building construction processes.
- h. Ornamental fountains are allowed if the fountain is equipped with a device for recycling water and water may be added to sustain appropriate maintenance levels only on the customer’s regularly designated watering days.

- i. Water may be added to swimming pools to sustain appropriate maintenance levels only on the customer's regularly designated watering days.
 - j. The operation of charity car washes must:
 - i. Not allow water to run-off more than seventy-five (75) feet, and
 - ii. Use hoses with on/off nozzles and buckets.
 - k. Large-scale recreational development, such as, but not limited to, water parks, shall submit a plan to the Director of Water Utilities that detail expected water consumption and maintenance requirements. Any deviation from the requirements of this ordinance will be resolved on a case-by-case method.
2. Administrative Enforcement, Presumption of Ownership & Control; Hearing Officers; Administration of Hearings, Hearings, Appeals, Payment, Subsequent Violations, Fees, and Requests for Variances as pertaining to Year Round Water Use Management are addressed in Sections 32-147 through 32-156.

Sec. 32- 145. Water Conservation Stages

WATERING DAYS

1. During Water Conservation Stages, a customer's watering day is determined by the last digit of the house number or property address. Multi-unit properties will use the lowest address number. Customers on rural routes will use the last number of their post office box number or their route number if they do not have a post office box number. Customers at Ft. Phantom Lake will use the last number of their lake lot. Customers in trailer parks will use the last number of their lot number.

If a residential customer's last number is:	Customer's watering day is:
7 or 8	Sunday
9	Monday
0	Tuesday
1	Wednesday
2	Thursday
3 or 4	Friday
5 or 6	Saturday

For example: If an address is 555 Walnut Street, the last number is five (5) and the watering day is Saturday.

For purposes of this section only, residential usage includes single-family residences, multifamily residences and apartment complexes. Non-residential customers shall follow the above schedule with the exception of the following changes:

2. Bi-weekly watering as prescribed in Stage 2 will occur according to location in East or West sides of the City, bounded on the north side of the City by Grape St. and then Pine St. to the north City Limits (north of Grape St.) and on the south side of the City by Sayles Blvd. to Buffalo Gap Road and then Buffalo Gap Road to the south City Limits.
3. Entities with large, open spaces (e.g., schools, universities, city parks, golf courses) using potable water may submit alternate watering schedules to the Director of Water Utilities except as otherwise prohibited in this ordinance. Upon his/her written approval acknowledged by the entity in question, these entities may follow the approved schedule rather than the calendar system, and will be held responsible for all the provisions of this article, based on the approved schedule.

STAGE 1 WATER ALERT

Implementation Criteria:

Combined treatment plant pumpage in excess of 45.0 MGD for two (2) consecutive days (while in Year Round Water Use Management trigger parameters); or, continually falling water storage facility levels which do not refill above fifty (50) percent overnight; or, combined storage in Hubbard Creek Reservoir and Lake Fort Phantom Hill is between 30-40%, or any unforeseen conditions that may occur that cause the City Manager to inform the Mayor of implementation.

Upon announcement and implementation by the City of Stage 1 Water Alert, the following restrictions shall apply to all persons during Stage 1 Water Alert:

1. Landscape Irrigation
 - a. Irrigation by all commercial, industrial, (including agricultural irrigation), and residential customers utilizing individual sprinklers, or sprinkler systems, of lawns, gardens, landscaped areas, trees, shrubs or other plants is prohibited except on a designated day which shall be once every seven (7) days and then only during the hours of 12:00 midnight to 10:00 a.m. and from 6:00 p.m. until 12:00 midnight.

Provided, however, irrigation of gardens, flowerbeds, trees and shrubs is permitted at any time of day if:

- i. A garden hose is used and is held in the hand during the duration of the irrigation event, or
- ii. A faucet-filled container of five (5) gallons or less is used, or
- iii. A drip irrigation system such as soaker hose, deep root water system, or bubbler is used. For the purpose of this section a drip irrigation system is defined as an irrigation device or system designed to emit water at low volumes and low pressures directly onto soil surface or below soil surface without airborne streams or droplets.

Irrigation of LAWNS is permitted at any time on any day if:

- i. A garden hose is used and is held in the hand during the duration of the irrigation event, or
- ii. A faucet-filled container of five (5) gallons or less is used.

A Drip Irrigation System SHALL NOT be used to irrigate LAWNS except on designated days and at designated times.

- b. New lawns that have been seeded (not to include re-seeding or overseeding existing turf), sodded or mulched may be watered daily for eight (8) minutes once during each of the following periods: 11:00 a.m. to 1:00 p.m.; 2:00 p.m. to 4:00 p.m.; 5:00 p.m. to 7:00 p.m.; and at regular intervals between 9:00 p.m. and 10:00 a.m. for a maximum of three (3) weeks. To qualify under this section, new lawns are those installed in conjunction with the construction of a new residence and for a period six (6) months thereafter or the re-tilling of an area equaling at least (50) percent of a new yard.

2. Vehicle Washing

- a. It is permissible to wash automobiles, trucks, trailers, boats, and other types of mobile equipment at any time on the immediate premises of a commercial car wash or commercial service station or at any location including a residence by using a five (5) gallon container and/or a hand held hose equipped with a quick shut-off nozzle for quick rinses.
- b. If the health, safety and welfare of the public depends upon frequent vehicle cleaning, as determined by the Director of Water Utilities or his/her designee, then washing of vehicles such as emergency vehicles, aircraft, garbage trucks, and vehicles used to transport food and perishables will be allowed.
- c. Charity car washes are prohibited.

- 3. Water may be added to swimming pools to sustain appropriate maintenance levels only on designated irrigation days.
- 4. Ornamental fountains are allowed if the fountain is equipped with a device for recycling water and water may be added to sustain appropriate maintenance levels only on the customer's regularly designated watering day.
- 5. Use of water from fire hydrants shall be limited to firefighting activities or other activities necessary to maintain public health, safety and welfare. By written approval from the Director of Water Utilities, businesses may purchase and draw water from fire hydrants for land development and building construction processes.
- 6. The following uses of water are defined as "waste of water" and are absolutely prohibited:
 - a. Allowing water to run off a property through the street, gutter, ditch, alley, or drain for more than seventy-five (75) feet from the downgrade of the property line;

- b. Failure to repair a controllable leak; including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet.
- c. Operating a permanently installed irrigation system with:
 - i. A broken sprinkler head;
 - ii. A sprinkler head that is spraying over a street or parking lot because it is out of adjustment; or
 - iii. A sprinkler head that is misting due to high pressure.
- d. Washing sidewalks, driveways, parking areas, tennis courts, patios or other paved areas, except to alleviate immediate fire, health and safety hazards, or to prepare an area for pavement repair or application.

7. Commercial and Industrial Users

- a. Commercial and industrial users of water shall, in addition to complying with other applicable articles in this ordinance, reduce their monthly consumption of water by a minimum of fifteen (15) percent compared to use during the same month of the previous year.
- b. Industrial users may, in order to justify water use, present a conservation plan for approval by the Director of Water Utilities.
- c. Golf courses will submit a conservation plan for approval by the Director of Water Utilities if potable irrigation water is to be used.

STAGE 2 WATER WARNING

Implementation Criteria:

Combined treatment plant pumpage in excess of 40.0-MGD for two (2) days (while in Stage 1 Water Alert trigger parameters); or, continually falling water storage facility levels which do not refill above forty (40) percent overnight or, combined storage in Hubbard Creek Reservoir and Lake Fort Phantom Hill is between 20-30% or, major line breaks, or pump system failure which causes unprecedented loss of capability to provide service, or any unforeseen conditions that may occur that cause the City Manager to inform the Mayor of implementation.

Upon announcement and implementation by the City of Stage 2 Water Warning, the following restrictions shall apply to all persons during Stage 2 Water Warning:

1. Landscape Irrigation

- a. Irrigation by all commercial, industrial and residential customers utilizing individual sprinklers, or sprinkler systems, of lawns, gardens, landscaped areas, trees, shrubs or other plants is prohibited except on a designated day which shall be once every two (2) weeks and then only during the hours of 12:00 midnight to 10:00 a.m. and from 6:00 p.m. until 12:00 midnight.

Provided, however, irrigation of gardens, flowerbeds, trees and shrubs is permitted at any time of day if:

- i. A garden hose is used and is held in the hand during the duration of the irrigation event, or
- ii. A faucet-filled container of five (5) gallons or less is used, or
- iii. A drip irrigation system such as soaker hose, deep root water system, or bubbler is used. For the purpose of this section a drip irrigation system is defined as an irrigation device or system designed to emit water at low volumes and low pressures directly onto soil surface or below soil surface without airborne streams or droplets.

Irrigation of lawns is permitted at any time on any day if:

- i. A garden hose is used and is held in the hand during the duration of the irrigation event, or
- ii. A faucet-filled container of five (5) gallons or less is used.

A Drip Irrigation System shall not be used to irrigate LAWNS except on designated days and at designated times.

- b. New lawns may be watered daily for eight minutes once during each of the following periods: 11:00 a.m. to 1:00 p.m.; 2:00 p.m. to 4:00 p.m.; 5:00 p.m. to 7:00 p.m.; and at regular intervals between 9:00 p.m. and 10:00 a.m. for a maximum of three (3) weeks. To qualify under this section, new lawns are those installed in conjunction with the construction of a new residence and for a period of six (6) months thereafter. Retilling or any replanting or reseeding of existing lawns shall NOT qualify for new lawn status in this section.

2. Vehicle Washing

- a. It is permissible to wash automobiles, trucks, trailers, boats, and other types of mobile equipment at any time on the immediate premises of a commercial car wash or commercial service station or at any location including a residence by using a five (5) gallon container and/or a hand held hose equipped with a quick shut-off nozzle for quick rinses.
- b. If the health, safety and welfare of the public depends upon frequent vehicle cleaning, as determined by the Director of Water Utilities or his/her designee, then washing of vehicles such as emergency vehicles, aircraft, garbage trucks, and vehicles used to transport food and perishables will be allowed.
- c. Charity car washes are prohibited.

- 3. Water may be added to swimming pools to sustain appropriate maintenance levels weekly, on the customer's regularly designated irrigation day.

- 4. Ornamental fountains are allowed if the fountain is equipped with a device for recycling water

and water may be added to sustain appropriate maintenance levels only on the customer's regularly designated watering day.

5. Use of water from fire hydrants shall be limited to firefighting activities or other activities necessary to maintain public health, safety and welfare. By written approval from the Director of Water Utilities, businesses may purchase and draw water from fire hydrants for land development and building construction processes.
6. The following uses of water are defined as "waste of water" and are absolutely prohibited:
 - a. Allowing water to run off a property through the street, gutter, ditch, alley, or drain for more than seventy-five (75) feet from the downgrade of the property line;
 - b. Failure to repair a controllable leak; including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet;
 - c. Operating a permanently installed irrigation system with:
 - i. A broken sprinkler head;
 - ii. A sprinkler head that is spraying over a street or parking lot because it is out of adjustment; or
 - iii. A sprinkler head that is misting due to high pressure.
 - d. Washing sidewalks, driveways, parking areas, tennis courts, patios or other paved areas, except to alleviate immediate fire, health or safety hazards, or to prepare an area for pavement repair or application.

7. Commercial and Industrial Users

- a. Commercial and industrial users of water shall continue to maintain at least a fifteen (15) percent monthly reduction of water use compared to use during the same month of the previous year.

Individual allotments may be adjusted by the Director based on historical water usage conservation practices of customer. The other restrictions of Stage 2 still apply to commercial and industrial users.

- b. Industrial users may present a conservation plan for approval by the Director of Water Utilities.
- c. Golf courses using potable water will reduce consumption by thirty (30) percent of contracted amount.

STAGE 3 WATER EMERGENCY

Implementation Criteria:

Combined treatment plant pumpage in excess of 36 MGD for three (3) days (while in Stage 2 Water

Warning trigger parameters), or depletion of the combined storage in Hubbard Creek Reservoir and Lake Fort Phantom Hill to less than 20% or major line breaks, or pump system failure which causes unprecedented loss of capability to provide service, or any unforeseen conditions that may occur that cause the City Manager to inform the Mayor of implementation.

Upon announcement and implementation by the City of Stage 3 Water Emergency, the following restrictions shall apply to all persons during Stage 3 Water Emergency:

1. Landscape Irrigation

Irrigation of gardens, flowerbeds, trees and shrubs (Not Lawns) by all commercial, industrial, and residential customers is permitted at any time on any day only if:

- a. A garden hose is used and is held in the hand during the duration of the irrigation event, or
- b. A faucet-filled container of five (5) gallons or less is used, or
- c. A drip irrigation system such as soaker hose, deep root water system, or bubbler is used. For the purpose of this section a drip irrigation system is defined as an irrigation device or system designed to emit water at low volumes and low pressures directly onto soil surface or below soil surface without airborne streams or droplets.
- d. New lawns may be watered daily for eight minutes once during each of the following periods: 11:00 a.m. to 1:00 p.m.; 2:00 p.m. to 4:00 p.m.; 5:00 p.m. to 7:00 p.m.; and at regular intervals between 9:00 p.m. and 10:00 a.m. for a maximum of three (3) weeks. To qualify under this section, new lawns are those installed in conjunction with the construction of a new residence and for a period of six (6) months thereafter. Retilling or any replanting or reseedling of existing lawns shall NOT qualify for new lawn status in this section.

Watering of existing lawns is prohibited at any time.

2. Vehicle Washing

- a. It is permissible to wash automobiles, trucks, trailers, boats, and other types of mobile equipment at any time on the immediate premises of a commercial car wash or commercial service station.
- b. If the health, safety and welfare of the public depends upon frequent vehicle cleaning, as determined by the Director of Water Utilities or his/her designee, then washing of vehicles such as emergency vehicles, aircraft, garbage trucks, and vehicles used to transport food and perishables will be allowed.
- c. Charity car washes are prohibited.

3. Water may be added to swimming pools to sustain appropriate maintenance levels weekly, on the customer's regularly designated irrigation days. New construction of swimming pools is prohibited.

4. Ornamental fountains are allowed if the fountain is equipped with a device for recycling water and water may be added to sustain appropriate maintenance levels only on the customer's regularly designated watering day. New construction of ornamental fountains is prohibited.
5. Use of water from fire hydrants shall be limited to fire-fighting activities or other activities necessary to maintain public health, safety and welfare. By written approval from the Director of Water Utilities, businesses may purchase and draw water from fire hydrants for land development and building construction processes.
6. The following uses of water are defined as "waste of water" and are absolutely prohibited:
 - a. Allowing water to run off a property through the street, gutter, ditch, alley, or drain for more than seventy-five (75) feet from the downgrade of the property line;
 - b. Failure to repair a controllable leak; including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet;
 - c. Operating a permanently installed irrigation system with:
 - i. A broken sprinkler head;
 - ii. A sprinkler head that is spraying over a street or a parking lot because it is out of adjustment; or
 - iii. A sprinkler head that is misting due to high pressure
 - d. Washing sidewalks, driveways, parking areas, tennis courts, patios or other paved areas, except to alleviate immediate fire, health or safety hazards, or to prepare an area for pavement repair or application.
7. Commercial and Industrial Users
 - a. Commercial and industrial users of water shall continue to maintain at least a fifteen (15) percent monthly reduction of water use compared to use during the same month of the previous year.

A surcharge rate will be assessed for any water consumption that does not comply with the required reductions. The surcharge in addition to regular charges is as follows:

	<u>First Occurrence</u>	<u>Subsequent Occurrence(s)</u>
First 5,000 gallons over allowed amount per 1,000 gallons	\$5.00	\$10.00
Next 5,000 gallons per 1,000 gallons	10.00	20.00
For higher usage per 1,000 gallons	20.00	30.00

Additionally, if a customer uses more than the allowed amount more than once at any time during Stage 3, the customer's water may be turned off and there will be a \$250.00 re-connect fee, in addition to the listed fees.

Individual allotments may be adjusted by the Director of Water Utilities based on historical water usage conservation practices of customer. The other restrictions of Stage 3 still apply to commercial and industrial users.

- b. Industrial users may present a conservation plan for approval by the Director of Water Utilities.
- c. Each golf course using potable water will reduce consumption by fifty (50) percent of contracted amount.

STAGE 4 WATER CRISIS

Implementation Criteria:

Loss of capability to provide water service or contamination of supply source, or any unforeseen/unexpected conditions that may occur that cause the City Manager to inform the Mayor of implementation.

Upon announcement and implementation by the City of Stage 4 Water Crisis, the following restrictions shall apply to all persons during Stage 4 Water Crisis:

- 1. All outdoor irrigation of vegetation including existing lawns, using potable water is prohibited.
- 2. New lawns may be watered daily for eight minutes once during each of the following periods: 11:00 a.m. to 1:00 p.m.; 2:00 p.m. to 4:00 p.m.; 5:00 p.m. to 7:00 p.m.; and at regular intervals between 9:00 p.m. and 10:00 a.m. for a maximum of three (3) weeks. To qualify under this section, new lawns are those installed in conjunction with the construction of a new residence and for a period of six (6) months thereafter. Retilling or any replanting or reseeding of existing lawns shall NOT qualify for new lawn status in this section.
- 3. Only washing of mobile equipment in the critical interest of the public health or safety shall be allowed.
- 4. The filling, refilling or adding of water to swimming and/or wading pools is prohibited. The construction of new swimming pools is prohibited.
- 5. The operation of any ornamental fountain or similar structure is prohibited. The construction of new ornamental fountains is prohibited.
- 6. Use of water from fire hydrants shall be limited to fire fighting and related activities or other activities necessary to maintain public health, safety and welfare. Water for domestic use only may be purchased from the bulk loading station.
- 7. The following uses of water are defined as "waste of water" and are absolutely prohibited:

- a. Allowing water to run off a property through the street, gutter, ditch, alley, or drain for more than seventy-five (75) feet from the downgrade of the property line;
- b. Failure to repair a controllable leak; including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet;
- c. Operating a permanently installed irrigation system with:
 - i. A broken sprinkler head;
 - ii. A sprinkler head that is spraying over a street or parking lot because it is out of adjustment; or
 - iii. A sprinkler head that is misting due to high pressure.
- d. Washing sidewalks, driveways, parking areas, tennis courts, patios or other paved areas, except to alleviate immediate fire, health or safety hazards.

8. Commercial and Industrial Users

- a. Commercial and industrial users of water (for other than drinking water and rest rooms) shall continue to maintain at least a 15 percent reduction of water use compared to use during the same month of the previous year.

A surcharge rate will be assessed for any water consumption that does not comply with the required reductions. The surcharge in addition to regular charges is as follows:

	<u>First Occurrence</u>	<u>Subsequent Occurrence(s)</u>
First 5,000 gallons over allowed amount per 1,000 gallons	\$10.00	\$20.00
Next 5,000 gallons, per 1,000 gallons	\$20.00	\$40.00
For higher usage, per 1,000 gallons	\$30.00	\$60.00

Additionally, if a customer uses more than the allowed amount more than once at any time during Stage 4, then after each such overuse these surcharges will be added and the customer's water may be turned off and there will be a \$500.00 re-connect fee, in addition to the listed fees.

Individual allotments may be adjusted by the Director of Water Utilities based on historical water usage and conservation practices of the customer. The other restrictions of Stage 4 still apply to commercial and industrial users.

- b. Water used for industrial purposes not in the immediate interest of the public health, safety and welfare will be curtailed to the extent necessary to effectuate the needs and purposes of this plan.

Sec. 32-146. Target Water Use Goals

The following target goals for water use are established for use during water conservation stages as contained in Section 32-145:

Stage 1 WATER ALERT

Target Water Use Goal:

Combined treatment plant production less than 45.0 million gallons per day (MGD) for all Abilene water treatment facilities.

Stage 2 WATER WARNING

Target Water Use Goal:

Combined treatment plant production less than 40.0 MGD for all Abilene water treatment facilities.

Stage 3 WATER EMERGENCY

Target Water Use Goal:

Combined treatment plant production less than 36.0 MGD for all Abilene water treatment facilities.

Stage 4 WATER CRISIS

Target Water Use Goal:

Combined treatment plant production less than 30 MGD for all Abilene water treatment facilities.

EXHIBIT A (REDLINE)

CHAPTER 32 UTILITIES

ARTICLE VI. WATER CONSERVATION PLAN

DIVISION 1 GENERALLY

Sec. 32-140. Declaration of Policy

In order to conserve the available water supply and protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire prevention and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, the City of Abilene (the City) hereby adopts the following regulations and restrictions on the delivery and consumption of water.

Water uses regulated or prohibited under this Water Conservation Plan (the Plan) are considered to be non-essential and continuation of such uses during times of water shortage or other emergency water supply conditions are deemed to constitute a waste of water which subjects the offender(s) to penalties as defined in Sections 32-147 through 32-155 of this Plan.

No person shall make, cause, use or permit the use of water from the City of Abilene Water Utility System for residential, commercial, industrial, agricultural, wholesale, governmental or any other purpose in a manner contrary to provisions of this Plan or in an amount in excess of that use permitted by the plan water conservation stage in effect pursuant to action taken by the Mayor or his/her designee in accordance with the provisions of this Plan.

Sec. 32-141. Authorization

The Mayor, Mayor Pro Tempore, and/or the City Manager, ~~if so designated, is~~ are hereby authorized, ~~consistent with the Charter of the City of Abilene, Sections 21 and 22,~~ to exercise those powers considered to be reasonable or necessary for the protection of persons or property in assessing the current state of our water supply and ~~directing the City Manager~~ to implement or terminate any stage, phase, or portion of the Water Conservation Plan. In the event that the triggering criteria specified in Section 32-145 of the Plan have been met for Stage 3-Water Emergency, or Stage 4- Water Crisis water shortage conditions, the City Manager is hereby authorized to initiate allocation of water supplies on a pro rata basis in accordance with Texas Water Code §11.039. Implementation and termination of any stage may occur, but is not mandated to occur, when conditions warrant.

Sec. 32-142. Application

The provisions of this Plan shall apply to persons, customers, and property utilizing the City Water Utility System wherever situated, including customers such as water supply corporations, and any others that receive water from the City of Abilene on a contract basis. The City shall include a provision in every wholesale water contract entered into or renewed ~~after adoption of this Plan,~~ including contract extensions, that in case of shortage of water in the City's water supply, the water to be distributed shall be divided by the City in accordance with Texas Water Code §11.039 among all users pro rata, according to the amount each may be entitled to, so that preference is given to no one and everyone suffers alike.

The City of Abilene contracted with qualified Professional Engineers to model and evaluate the City's

water supply resources from the perspective of drought endurance. It was determined that the combined available capacity from Hubbard Creek Reservoir (HCR) and Lake Fort Phantom Hill (LPFH) is the best indicator of the severity of Abilene's regional drought conditions. The Water Conservation triggers are primarily based on the combined available capacity of those two water supply sources.

The City utilizes a variety of alternative water sources including an extensive nonpotable reuse program, and an indirect potable water reuse system. The City encourages its customers to utilize alternative water sources during periods of water shortage. These water use restrictions do not apply to the utilization of alternative water sources including nonpotable water and groundwater (well water). Customers using water from private groundwater wells on days other than those designated in this Plan, or those watering from private groundwater wells during the hours of 10:00 a.m. and 6:00 p.m., must post a sign stating "WELL WATER." The sign must be properly sized and posted so it is visible from the street. The city strongly encourages the use of alternative water sources from groundwater for landscape purposes.

These water use restrictions do apply to those persons without a reclaimed water contract who divert raw surface water from Lake Kirby or Lake Fort Phantom Hill for landscape irrigation. Whenever the term or reference to water, or potable water or similar and like words are used in this "water conservation plan," it shall be understood to include the use of raw surface water from Lake Kirby and Lake Fort Phantom Hill for landscape irrigation.

These water use restrictions do apply to the time for the use of treated wastewater (reclaimed water) for landscape irrigation. Use of reclaimed water or raw water under a reclaimed water contract for landscape irrigation is only allowed during the hours of 12:00 midnight to 10:00 a.m., and from 6:00 p.m. until 12:00 midnight. All other uses of reclaimed water shall be in accordance with Title 30 Texas Administrative Code, chapter 210 and the City of Abilene's Authorization No. R10334-004, as amended.

Sec. 32-143. Regional Water Planning Groups and Public Involvement and Education

Sec. 32-143.1 Coordination with Regional Planning Groups

The service area of the City is currently located within the Brazos G Regional Water Planning AreaGroup. The City will cooperate and provide information regarding the Plan ~~as-needed-to-all-Regional-to~~ applicable regional water planning ~~area~~ groups.

Sec. 32-143.2 Public Involvement

The adoption of this Plan and any amendments will provide for public input at a public hearing held in conjunction with one of the readings of said ordinance enacting the Plan or amendments thereto.

Sec. 32-143.3 Public Education of Action on Water Conservation Stages

In conjunction with Section 32-141, the initiation and termination of any drought response stage (Water Conservation Stage) shall be announced to the public and wholesale customers at a media conference, and shall become effective immediately upon such announcement. In addition to public announcements of initiation and termination of a Water Conservation Stage and Year Round Water Use Management information, continuing public education and information regarding the Plan shall be publicized via posting on the City's website.

DIVISION 2 WATER CONSERVATION PLAN PROCEDURES

Sec. 32-144. Year Round Water Use Management

To conserve water supplies available to the City of Abilene, Year Round Water Use Management shall be implemented to restrict certain potable water use activities by all customers of the City of Abilene Water Utility System.

When conditions warrant, pursuant to Sec 32-141, the Water Conservation Plan will be implemented in accordance with the applicable provisions of this Plan.

1. Year Round Water Use Management. The following year round provisions shall apply to all potable water customers of the City of Abilene Water Utility System:

- a. Watering Days: Customers are encouraged to conserve water by watering their lawn areas only once every seven (7) days on one of their designated watering days.

A customer's watering day is determined by the last digit of the house number or property address. Multi-unit properties will use the lowest address number. Customers on rural routes will use the last number of their post office box number or their route number if they do not have a post office box number. Customers at Ft. Phantom Lake will use the last number of their lake lot. Customers in trailer parks will use the last number of their lot number.

When combined storage in Hubbard Creek Reservoir and Lake Fort Phantom Hill is above 50%, ~~Ft. Phantom Reservoir is above 1630.9 feet elevation (less than five (5) feet below the spillway)~~ the following three (3) day a week watering schedule applies:

Designated Watering Days:

Wednesday, Friday, Sunday	Odd numbered addresses
Tuesday, Thursday, Saturday	Even numbered addresses
Monday, Wednesday, Friday	Industrial, commercial, government customers, public and private schools and universities

When combined storage in Hubbard Creek Reservoir and Lake Fort Phantom Hill is between 40-50%, ~~Ft. Phantom Reservoir is between 1630.9 feet and 1625.9 feet elevation (between five (5) and ten (10) feet below the spillway)~~, the following two (2) day a week watering schedule applies:

Designated Watering Days:

Thursday, Sunday	Odd numbered addresses
Tuesday, Saturday	Even numbered addresses
Monday, Friday	Industrial, commercial, government customers, public and private schools and universities

- b. Watering Times:

Watering by all commercial, industrial, and residential customers utilizing individual sprinklers, or sprinkler systems, on lawns, gardens, landscaped areas, trees, shrubs or other plants is prohibited except on designated day(s) and then only during the hours of 12:00 midnight to 10:00 am and from 6:00 pm until 12:00 midnight.

- c. Watering of gardens, flowerbeds, trees and shrubs is permitted at any time of any day if:
 - i. A garden hose is used and is held in the hand during the duration of the irrigation event, or
 - ii. A faucet-filled container of five (5) gallons or less is used, or
 - iii. A drip irrigation system such as a soaker hose, deep root water system, or bubbler is used. For the purpose of this section a drip irrigation system is defined as an irrigation device or system designed to emit water at low volumes and low pressures directly onto soil surface or below soil surface without airborne streams or droplets.
- d. Irrigation of lawns is permitted at any time on any day if:
 - i. A garden hose is used and is held in the hand during the duration of the irrigation event, or
 - ii. A faucet-filled container of five (5) gallons or less is used.
 - iii. A drip irrigation system shall not be used to irrigate lawns except on designated days and at designated times.
- e. New lawns that have been seeded (not to include re-seeding or overseeding existing turf), sodded or mulched may be watered daily for eight (8) minutes once during each of the following periods: 11:00 a.m. to 1:00 p.m.; 2:00 p.m. to 4:00 p.m.; 5:00 p.m. to 7:00 p.m.; and at regular intervals between 9:00 p.m. and 10:00 a.m. for a maximum of three (3) weeks. To qualify under this section, new lawns are those installed in conjunction with the construction of a new residence and for a period six (6) months thereafter or the re-tilling of an area equaling at least fifty (50) percent of an existing yard.
- f. Water Wasting. The following uses of water are defined as “waste of water” and are absolutely prohibited:
 - i. Allowing water to run off a property through the street, gutter, ditch, alley, or drain for more than seventy-five (75) feet from the downgrade of the property line;
 - ii. Failure to repair a controllable leak, including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet.
 - iii. Operating a permanently installed irrigation system with a broken sprinkler head; a sprinkler head that is spraying over a street or parking lot because it is out of adjustment; or a sprinkler head that is misting due to high pressure.
- g. Use of water from fire hydrants shall be limited to firefighting activities or other activities necessary to maintain public health, safety, and welfare. The Director of Water Utilities will review written requests on a case-by-case basis for the purchase and withdrawal of fire hydrants for land development and building construction processes.

- h. Ornamental fountains are allowed if the fountain is equipped with a device for recycling water and water may be added to sustain appropriate maintenance levels only on the customer's regularly designated watering days.
 - i. Water may be added to swimming pools to sustain appropriate maintenance levels only on the customer's regularly designated watering days.
 - j. The operation of charity car washes must:
 - i. Not allow water to run-off more than seventy-five (75) feet, and
 - ii. Use hoses with on/off nozzles and buckets.
 - k. Large-scale recreational development, such as, but not limited to, water parks, shall submit a plan to the Director of Water Utilities that detail expected water consumption and maintenance requirements. Any deviation from the requirements of this ordinance will be resolved on a case-by-case method.
2. Administrative Enforcement, Presumption of Ownership & Control; Hearing Officers; Administration of Hearings, Hearings, Appeals, Payment, Subsequent Violations, Fees, and Requests for Variances as pertaining to Year Round Water Use Management are addressed in Sections 32-147 through 32-156.

Sec. 32- 145. Water Conservation Stages

WATERING DAYS

1. During Water Conservation Stages, a customer's watering day is determined by the last digit of the house number or property address. Multi-unit properties will use the lowest address number. Customers on rural routes will use the last number of their post office box number or their route number if they do not have a post office box number. Customers at Ft. Phantom Lake will use the last number of their lake lot. Customers in trailer parks will use the last number of their lot number.

If a residential customer's last number is:	Customer's watering day is:
7 or 8	Sunday
9	Monday
0	Tuesday
1	Wednesday
2	Thursday
3 or 4	Friday
5 or 6	Saturday

For example: If an address is 555 Walnut Street, the last number is five (5) and the watering day is Saturday.

For purposes of this section only, residential usage includes single-family residences, multifamily residences and apartment complexes. Non-residential customers shall follow the above schedule with the exception of the following changes:

7 or 8
5 or 6

Wednesday
Tuesday

2. Bi-weekly watering as prescribed in Stage 2 will occur according to location in East or West sides of the City, bounded on the north side of the City by Grape St. and then Pine St. to the north City Limits (north of Grape St.) and on the south side of the City by Sayles Blvd. to Buffalo Gap Road and then Buffalo Gap Road to the south City Limits.
3. Entities with large, open spaces (e.g., schools, universities, city parks, golf courses) using potable water may submit alternate watering schedules to the Director of Water Utilities except as otherwise prohibited in this ordinance. Upon his/her written approval acknowledged by the entity in question, these entities may follow the approved schedule rather than the calendar system, and will be held responsible for all the provisions of this article, based on the approved schedule.

STAGE 1 WATER ALERT

Implementation Criteria:

Combined treatment plant pumpage in excess of ~~45.0~~~~49.5~~ MGD for two (2) consecutive days (~~while in Year Round Water Use Management trigger parameters~~); or, continually falling water storage facility levels which do not refill above fifty (50) percent overnight; or, ~~combined storage in Hubbard Creek Reservoir and Lake Fort Phantom Hill is between 30-40%, depletion of the Ft. Phantom Reservoir to the elevation 1625.9 (ten (10) feet below spillway) if Hubbard Creek Reservoir is at sixty (60) percent capacity or less or 1624.9 (eleven (11) feet below spillway) if Hubbard Creek Reservoir is at greater than sixty (60) percent of capacity~~, or any unforeseen conditions that may occur that cause the City Manager to ~~inform the Mayor of~~ ~~recommend~~ implementation ~~to the Mayor~~.

Upon announcement and implementation by the City of Stage 1 Water Alert, the following restrictions shall apply to all persons during Stage 1 Water Alert:

1. Landscape Irrigation
 - a. Irrigation by all commercial, industrial, (including agricultural irrigation), and residential customers utilizing individual sprinklers, or sprinkler systems, of lawns, gardens, landscaped areas, trees, shrubs or other plants is prohibited except on a designated day which shall be once every seven (7) days and then only during the hours of 12:00 midnight to 10:00 a.m. and from 6:00 p.m. until 12:00 midnight.

Provided, however, irrigation of gardens, flowerbeds, trees and shrubs is permitted at any time of day if:

- i. A garden hose is used and is held in the hand during the duration of the irrigation event, or
- ii. A faucet-filled container of five (5) gallons or less is used, or

- iii. A drip irrigation system such as soaker hose, deep root water system, or bubbler is used. For the purpose of this section a drip irrigation system is defined as an irrigation device or system designed to emit water at low volumes and low pressures directly onto soil surface or below soil surface without airborne streams or droplets.

Irrigation of LAWNS is permitted at any time on any day if:

- i. A garden hose is used and is held in the hand during the duration of the irrigation event, or
- ii. A faucet-filled container of five (5) gallons or less is used.

A Drip Irrigation System SHALL NOT be used to irrigate LAWNS except on designated days and at designated times.

- b. New lawns that have been seeded (not to include re-seeding or overseeding existing turf), sodded or mulched may be watered daily for eight (8) minutes once during each of the following periods: 11:00 a.m. to 1:00 p.m.; 2:00 p.m. to 4:00 p.m.; 5:00 p.m. to 7:00 p.m.; and at regular intervals between 9:00 p.m. and 10:00 a.m. for a maximum of three (3) weeks. To qualify under this section, new lawns are those installed in conjunction with the construction of a new residence and for a period six (6) months thereafter or the re-tilling of an area equaling at least (50) percent of a new yard.

2. Vehicle Washing

- a. It is permissible to wash automobiles, trucks, trailers, boats, and other types of mobile equipment at any time on the immediate premises of a commercial car wash or commercial service station or at any location including a residence by using a five (5) gallon container and/or a hand held hose equipped with a quick shut-off nozzle for quick rinses.
- b. If the health, safety and welfare of the public depends upon frequent vehicle cleaning, as determined by the Director of Water Utilities or his/her designee, then washing of vehicles such as emergency vehicles, aircraft, garbage trucks, and vehicles used to transport food and perishables will be allowed.
- c. Charity car washes are prohibited.

- 3. Water may be added to swimming pools to sustain appropriate maintenance levels only on designated irrigation days.
- 4. Ornamental fountains are allowed if the fountain is equipped with a device for recycling water and water may be added to sustain appropriate maintenance levels only on the customer's regularly designated watering day.
- 5. Use of water from fire hydrants shall be limited to firefighting activities or other activities necessary to maintain public health, safety and welfare. By written approval from the Director of Water Utilities, businesses may purchase and draw water from fire hydrants for land

development and building construction processes.

6. The following uses of water are defined as "waste of water" and are absolutely prohibited:
 - a. Allowing water to run off a property through the street, gutter, ditch, alley, or drain for more than seventy-five (75) feet from the downgrade of the property line;
 - b. Failure to repair a controllable leak; including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet.
 - c. Operating a permanently installed irrigation system with:
 - i. A broken sprinkler head;
 - ii. A sprinkler head that is spraying over a street or parking lot because it is out of adjustment; or
 - iii. A sprinkler head that is misting due to high pressure.
 - d. Washing sidewalks, driveways, parking areas, tennis courts, patios or other paved areas, except to alleviate immediate fire, health and safety hazards, or to prepare an area for pavement repair or application.
7. Commercial and Industrial Users
 - a. Commercial and industrial users of water shall, in addition to complying with other applicable articles in this ordinance, reduce their monthly consumption of water by a minimum of fifteen (15) percent compared to use during the same month of the previous year.
 - b. Industrial users may, in order to justify water use, present a conservation plan for approval by the Director of Water Utilities.
 - c. Golf courses will submit a conservation plan for approval by the Director of Water Utilities if potable irrigation water is to be used.

STAGE 2 WATER WARNING

Implementation Criteria:

Combined treatment plant pumpage in excess of ~~40.0~~~~49.5~~ MGD for two (2) days (~~while in Stage 1 Water Alert trigger parameters~~); or, continually falling water storage facility levels which do not refill above ~~forty~~~~fifty~~ (40~~50~~) percent overnight or, ~~combined storage in Hubbard Creek Reservoir and Lake Fort Phantom Hill is between 20-30% depletion of the Ft. Phantom Reservoir to the elevation 1618.9 (seventeen (17) feet below spillway)~~; or, major line breaks, or pump system failure which causes unprecedented loss of capability to provide service, or any unforeseen conditions that may occur that cause the City Manager to ~~inform the Mayor of~~~~recommend~~ implementation ~~to the Mayor~~.

Upon announcement and implementation by the City of Stage 2 Water Warning, the following restrictions shall apply to all persons during Stage 2 Water Warning:

1. Landscape Irrigation

- a. Irrigation by all commercial, industrial and residential customers utilizing individual sprinklers, or sprinkler systems, of lawns, gardens, landscaped areas, trees, shrubs or other plants is prohibited except on a designated day which shall be once every two (2) weeks and then only during the hours of 12:00 midnight to 10:00 a.m. and from 6:00 p.m. until 12:00 midnight.

Provided, however, irrigation of gardens, flowerbeds, trees and shrubs is permitted at any time of day if:

- i. A garden hose is used and is held in the hand during the duration of the irrigation event, or
- ii. A faucet-filled container of five (5) gallons or less is used, or
- iii. A drip irrigation system such as soaker hose, deep root water system, or bubbler is used. For the purpose of this section a drip irrigation system is defined as an irrigation device or system designed to emit water at low volumes and low pressures directly onto soil surface or below soil surface without airborne streams or droplets.

Irrigation of lawns is permitted at any time on any day if:

- i. A garden hose is used and is held in the hand during the duration of the irrigation event, or
- ii. A faucet-filled container of five (5) gallons or less is used.

A Drip Irrigation System shall not be used to irrigate LAWNS except on designated days and at designated times.

- b. New lawns may be watered daily for eight minutes once during each of the following periods: 11:00 a.m. to 1:00 p.m.; 2:00 p.m. to 4:00 p.m.; 5:00 p.m. to 7:00 p.m.; and at regular intervals between 9:00 p.m. and 10:00 a.m. for a maximum of three (3) weeks. To qualify under this section, new lawns are those installed in conjunction with the construction of a new residence and for a period of six (6) months thereafter. Retilling or any replanting or reseeding of existing lawns shall NOT qualify for new lawn status in this section.

2. Vehicle Washing

- a. It is permissible to wash automobiles, trucks, trailers, boats, and other types of mobile equipment at any time on the immediate premises of a commercial car wash or commercial service station or at any location including a residence by using a five (5) gallon container and/or a hand held hose equipped with a quick shut-off nozzle for quick rinses.
- b. If the health, safety and welfare of the public depends upon frequent vehicle cleaning, as determined by the Director of Water Utilities or his/her designee, then washing of vehicles such as emergency vehicles, aircraft, garbage trucks, and vehicles used to transport food

and perishables will be allowed.

- c. Charity car washes are prohibited.
3. Water may be added to swimming pools to sustain appropriate maintenance levels weekly, on the customer's regularly designated irrigation day.
 4. Ornamental fountains are allowed if the fountain is equipped with a device for recycling water and water may be added to sustain appropriate maintenance levels only on the customer's regularly designated watering day.
 5. Use of water from fire hydrants shall be limited to firefighting activities or other activities necessary to maintain public health, safety and welfare. By written approval from the Director of Water Utilities, businesses may purchase and draw water from fire hydrants for land development and building construction processes.
 6. The following uses of water are defined as "waste of water" and are absolutely prohibited:
 - a. Allowing water to run off a property through the street, gutter, ditch, alley, or drain for more than seventy-five (75) feet from the downgrade of the property line;
 - b. Failure to repair a controllable leak; including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet;
 - c. Operating a permanently installed irrigation system with:
 - i. A broken sprinkler head;
 - ii. A sprinkler head that is spraying over a street or parking lot because it is out of adjustment; or
 - iii. A sprinkler head that is misting due to high pressure.
 - d. Washing sidewalks, driveways, parking areas, tennis courts, patios or other paved areas, except to alleviate immediate fire, health or safety hazards, or to prepare an area for pavement repair or application.
 7. Commercial and Industrial Users
 - a. Commercial and industrial users of water shall continue to maintain at least a fifteen (15) percent monthly reduction of water use compared to use during the same month of the previous year.

Individual allotments may be adjusted by the Director based on historical water usage conservation practices of customer. The other restrictions of Stage 2 still apply to commercial and industrial users.
 - b. Industrial users may present a conservation plan for approval by the Director of Water

Utilities.

- c. Golf courses using potable water will reduce consumption by thirty (30) percent of contracted amount.

STAGE 3 WATER EMERGENCY

Implementation Criteria:

Combined treatment plant pumpage in excess of ~~3630~~ MGD for three (3) days (while in Stage 2 Water Warning trigger parameters), or ~~and~~ depletion of the combined storage in Hubbard Creek Reservoir and Lake Fort Phantom Hill to less than 20% ~~Ft. Phantom Reservoir to the elevation 1614.9 (twenty-one (21) feet below spillway);~~ or major line breaks, or pump system failure which causes unprecedented loss of capability to provide service, or any unforeseen conditions that may occur that cause the City Manager to ~~inform the Mayor of~~ ~~recommend~~ implementation ~~to the Mayor~~.

Upon announcement and implementation by the City of Stage 3 Water Emergency, the following restrictions shall apply to all persons during Stage 3 Water Emergency:

1. Landscape Irrigation

Irrigation of gardens, flowerbeds, trees and shrubs (Not Lawns) by all commercial, industrial, and residential customers is permitted at any time on any day only if:

- a. A garden hose is used and is held in the hand during the duration of the irrigation event, or
- b. A faucet-filled container of five (5) gallons or less is used, or
- c. A drip irrigation system such as soaker hose, deep root water system, or bubbler is used. For the purpose of this section a drip irrigation system is defined as an irrigation device or system designed to emit water at low volumes and low pressures directly onto soil surface or below soil surface without airborne streams or droplets.
- d. ~~New lawns may be watered daily for eight minutes once during each of the following periods: 11:00 a.m. to 1:00 p.m.; 2:00 p.m. to 4:00 p.m.; 5:00 p.m. to 7:00 p.m.; and at regular intervals between 9:00 p.m. and 10:00 a.m. for a maximum of three (3) weeks. To qualify under this section, new lawns are those installed in conjunction with the construction of a new residence and for a period of six (6) months thereafter. Retilling or any replanting or reseedling of existing lawns shall NOT qualify for new lawn status in this section.~~

Watering of ~~existing~~ ~~L~~lawns is prohibited at any time. ~~No new lawns may be installed.~~

2. Vehicle Washing

- a. It is permissible to wash automobiles, trucks, trailers, boats, and other types of mobile equipment at any time on the immediate premises of a commercial car wash or commercial service station.
- b. If the health, safety and welfare of the public depends upon frequent vehicle cleaning, as

determined by the Director of Water Utilities or his/her designee, then washing of vehicles such as emergency vehicles, aircraft, garbage trucks, and vehicles used to transport food and perishables will be allowed.

- c. Charity car washes are prohibited.
- 3. Water may be added to swimming pools to sustain appropriate maintenance levels weekly, on the customer's regularly designated irrigation days. New construction of swimming pools is prohibited.
- 4. Ornamental fountains are allowed if the fountain is equipped with a device for recycling water and water may be added to sustain appropriate maintenance levels only on the customer's regularly designated watering day. New construction of ornamental fountains is prohibited.
- 5. Use of water from fire hydrants shall be limited to fire-fighting activities or other activities necessary to maintain public health, safety and welfare. By written approval from the Director of Water Utilities, businesses may purchase and draw water from fire hydrants for land development and building construction processes.
- 6. The following uses of water are defined as "waste of water" and are absolutely prohibited:
 - a. Allowing water to run off a property through the street, gutter, ditch, alley, or drain for more than seventy-five (75) feet from the downgrade of the property line;
 - b. Failure to repair a controllable leak; including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet;
 - c. Operating a permanently installed irrigation system with:
 - i. A broken sprinkler head;
 - ii. A sprinkler head that is spraying over a street or a parking lot because it is out of adjustment; or
 - iii. A sprinkler head that is misting due to high pressure
 - d. Washing sidewalks, driveways, parking areas, tennis courts, patios or other paved areas, except to alleviate immediate fire, health or safety hazards, or to prepare an area for pavement repair or application.
- 7. Commercial and Industrial Users
 - a. Commercial and industrial users of water shall continue to maintain at least a fifteen (15) percent monthly reduction of water use compared to use during the same month of the previous year.

A surcharge rate will be assessed for any water consumption that does not comply with the required reductions. The surcharge in addition to regular charges is as follows:

	<u>First Occurrence</u>	<u>Subsequent Occurrence(s)</u>
First 5,000 gallons over allowed amount per 1,000 gallons	\$5.00	\$10.00
Next 5,000 gallons per 1,000 gallons	10.00	20.00
For higher usage per 1,000 gallons	20.00	30.00

Additionally, if a customer uses more than the allowed amount more than once at any time during Stage 3, the customer's water may be turned off and there will be a \$250.00 re-connect fee, in addition to the listed fees.

Individual allotments may be adjusted by the Director of Water Utilities based on historical water usage conservation practices of customer. The other restrictions of Stage 3 still apply to commercial and industrial users.

- b. Industrial users may present a conservation plan for approval by the Director of Water Utilities.
- c. Each golf course using potable water will reduce consumption by fifty (50) percent of contracted amount.

STAGE 4 WATER CRISIS

Implementation Criteria:

Loss of capability to provide water service or contamination of supply source, or any unforeseen/unexpected conditions that may occur that cause the City Manager to **inform the Mayor of recommend** implementation ~~to the Mayor~~.

Upon announcement and implementation by the City of Stage 4 Water Crisis, the following restrictions shall apply to all persons during Stage 4 Water Crisis:

1. All outdoor irrigation of vegetation including **existing** lawns, using potable water is prohibited.
2. **New lawns may be watered daily for eight minutes once during each of the following periods: 11:00 a.m. to 1:00 p.m.; 2:00 p.m. to 4:00 p.m.; 5:00 p.m. to 7:00 p.m.; and at regular intervals between 9:00 p.m. and 10:00 a.m. for a maximum of three (3) weeks. To qualify under this section, new lawns are those installed in conjunction with the construction of a new residence and for a period of six (6) months thereafter. Retilling or any replanting or reseeding of existing lawns shall NOT qualify for new lawn status in this section.**
3. Only washing of mobile equipment in the critical interest of the public health or safety shall be allowed.
4. The filling, refilling or adding of water to swimming and/or wading pools is prohibited. The construction of new swimming pools is prohibited.

5. The operation of any ornamental fountain or similar structure is prohibited. The construction of new ornamental fountains is prohibited.
6. Use of water from fire hydrants shall be limited to fire fighting and related activities or other activities necessary to maintain public health, safety and welfare. Water for domestic use only may be purchased from the bulk loading station.
7. The following uses of water are defined as "waste of water" and are absolutely prohibited:
 - a. Allowing water to run off a property through the street, gutter, ditch, alley, or drain for more than seventy-five (75) feet from the downgrade of the property line;
 - b. Failure to repair a controllable leak; including a broken sprinkler head, a leaking valve, leaking or broken pipes, or a leaking faucet;
 - c. Operating a permanently installed irrigation system with:
 - i. A broken sprinkler head;
 - ii. A sprinkler head that is spraying over a street or parking lot because it is out of adjustment; or
 - iii. A sprinkler head that is misting due to high pressure.
 - d. Washing sidewalks, driveways, parking areas, tennis courts, patios or other paved areas, except to alleviate immediate fire, health or safety hazards.
8. Commercial and Industrial Users
 - a. Commercial and industrial users of water (for other than drinking water and rest rooms) shall continue to maintain at least a 15 percent reduction of water use compared to use during the same month of the previous year.

A surcharge rate will be assessed for any water consumption that does not comply with the required reductions. The surcharge in addition to regular charges is as follows:

	<u>First Occurrence</u>	<u>Subsequent Occurrence(s)</u>
First 5,000 gallons over allowed amount per 1,000 gallons	\$10.00	\$20.00
Next 5,000 gallons, per 1,000 gallons	\$20.00	\$40.00
For higher usage, per 1,000 gallons	\$30.00	\$60.00

Additionally, if a customer uses more than the allowed amount more than once at any time during Stage 4, then after each such overuse these surcharges will be added and the customer's water may be turned off and there will be a \$500.00 re-connect fee, in addition to the listed fees.

Individual allotments may be adjusted by the Director of Water Utilities based on historical water usage and conservation practices of the customer. The other restrictions of Stage 4 still apply to commercial and industrial users.

- b. Water used for industrial purposes not in the immediate interest of the public health, safety and welfare will be curtailed to the extent necessary to effectuate the needs and purposes of this plan.

Sec. 32-146. Target Water Use Goals

The following target goals for water use are established for use during water conservation stages as contained in Section 32-145:

Stage 1 WATER ALERT

Target Water Use Goal:

Combined treatment plant production less than ~~45.0~~~~49.5~~ million gallons per day (MGD) for all Abilene water treatment facilities.

Stage 2 WATER WARNING

Target Water Use Goal:

Combined treatment plant production less than ~~40.0~~~~49.5~~ MGD for all Abilene water treatment facilities.

Stage 3 WATER EMERGENCY

Target Water Use Goal:

Combined treatment plant production less than ~~36.0~~~~30~~ MGD for all Abilene water treatment facilities.

Stage 4 WATER CRISIS

Target Water Use Goal:

Combined treatment plant production less than 30 MGD for all Abilene water treatment facilities.

Ordinance (First Reading): Receive a Report, Hold a Discussion and Public Hearing, and Take Action on an Ordinance amending Chapter 32 "Utilities", Article VI "Water Conservation Plan", of the Abilene Municipal Code by amending Sections 32-140, 32-141, 32-142, 32-143, 32-144, 32-145, and 32-146, as set out below, providing for a severability clause, and declaring a penalty.



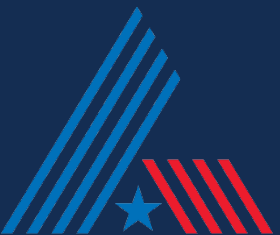
Water Conservation Plan

- Chapter 32, Article VI, Water Conservation Plan, of the City Code of Ordinances regulates and restricts the delivery and consumption of water as necessary to minimize the adverse impacts of water supply shortages or other water supply emergency conditions; and
- The current Water Conservation Plan utilizes the water surface elevation of Lake Fort Phantom Hill for determining the appropriate water conservation measures to be implemented during normal and drought conditions
- The City of Abilene hired qualified Professional Engineers to model and evaluate the City's water supply resources from the perspective of drought endurance and make recommendations for improving the effectiveness of the Water Conservation Plan
- The Engineer's recommend utilizing the combined available capacities of Hubbard Creek Lake and Lake Fort Phantom Hill as the more effective trigger levels for the initiation or termination of each drought response stage
- These recommended ordinance amendments implement the new trigger levels and make other minor edits to the existing ordinance language



Water Conservation Plan

- **Section 32-140. Declaration of Policy:** Minor edits for clarification.
- **Sec. 32.141. Authorization:** Authorizing the City Manager to implement the Plan, and delete the word “phase”.
- **Sec. 32.142. Application:** Minor edits for clarification and adding a paragraph describing the basis for utilizing the combined available capacity as the water conservation triggers.
- **Sec. 32.143. Regional Water Planning and Public Involvement and Education:** Minor edits for clarification
- **Sec 32-144 Year Round Water Use Management:** Implementing the new water conservation triggers.
- **Section 32-145 Water Conservation Stages.** Implementing new parameters for water conservation and peak pumping event triggers, edits aligning the City Manager’s implementation authority with Section 32-141, and other minor edits for clarification.
- **Section 32-146 Target Water Use Goals:** Edits to align goals with peak pumping triggers of Section 32-145.



Ordinance (First Reading): Receive a Report, Hold a Discussion and Public Hearing, and Take Action on an Ordinance amending Chapter 32 "Utilities", Article VI "Water Conservation Plan", of the Abilene Municipal Code by amending Sections 32-140, 32-141, 32-142, 32-143, 32-144, 32-145, and 32-146, as set out below, providing for a severability clause, and declaring a penalty.

QUESTIONS?





**City Council
Agenda Memo**

City Council Meeting Date: 6/23/2022

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **9. Ordinance (First Reading) Z-2022-12:** Receive a Report, Hold a Discussion and Take Action on A Request From Griffith Lake Estates Represented By Jacob & Martin, LLC To Change Zoning Of Approximately 27.2 Acres From Agricultural Open (AO) And Residential Multi-Family (MF) To Residential Multi-Family (MF) And General Commercial (GC) *(Tim Littlejohn)*

GENERAL INFORMATION

The request is to rezone approximately 27.2 acres from Agricultural Open (AO) and Multi Family (MF) to Multi-Family (MF) and General Commercial (GC) District.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Approval

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval by a vote of 6-0.

ATTACHMENTS:

1. Z-2022-12 Council Ordinance
2. Z-2022-12 Staff Report
3. Z-2022-12 PZC Presentation

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE "LAND DEVELOPMENT CODE" OF THE ABILENE CITY CODE, CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTY; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 2 (Zoning Regulations) of the Land Development Code of the City of Abilene, is hereby amended by changing zoning district boundaries as set out in Exhibit A, attached hereto and made a part of this ordinance for all purposes.

PART 2: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PART 3: That the Planning Director be, and is hereby authorized and directed to change the official Zoning Map of the City of Abilene to correctly reflect the amendments thereto.

PASSED ON FIRST READING the 23th day of June, 2022.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 21st day of May, 2022, the same being more than fifteen (15) days prior to a public hearing held at the Council Chambers of the City Hall at 555 Walnut St. in Abilene, Texas, at 8:30 a.m. on the 14th day of July, 2022, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FINAL READING THIS 14th day of July, 2022.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

ZONING CASE Z-2022-12

STAFF REPORT



Scheduled Hearings

Planning & Zoning Commission: June 7, 2022

City Council 1st Reading: June 23, 2022

City Council 2nd Reading: July 14, 2022

Applicant

Owner: Griffith Lake Estates

Agent: Jacob & Martin, LLC

Request

Rezone approximately 27.2 acres from Agricultural Open (AO) and Multi Family (MF) to Multi-Family (MF) and General Commercial (GC) District.

Location

27.2 acres of vacant land south of Scottish Road between Griffith Road and East Stamford St. (East Interstate – 20 Service Road).

Background

This property was annexed in 1964 and has been vacant since annexation. Currently this property is zoned Agricultural Open and Residential Multi-family. This tract was previously part of a Planned Development District (PDD-65) which allowed for a mixture of different uses ranging from single-family residential to general retail and light commercial activities. Griffith Road that borders the western edge of the property is shown as a collector street on the Thoroughfare Plan. A 10-inch water line currently exists in Griffith Road and a 15-inch wastewater line is in Scottish Road and East Stamford Street. The property is not platted.

Zoning, Existing and Proposed Land Use

Current zoning on the tract is split between Agricultural Open (AO) surrounding Multi-Family (MF) on the south, east, and west. The proposal is to add additional Multi-Family west and south of the existing multi-family zoning and change the eastern portion of the property to retail space. According to the submitted concept plan a total of 300 units of multi-family development is planned in 6 buildings including an amenity building with pool and 35,200 square feet of leasable retail space in the two buildings on the eastern portion of the tract.

Criteria Assessment

Section 1.4.1.4 of Abilene's Land Development Code states that, in making a determination regarding a requested zoning change, the Planning and Zoning Commission and the City Council may consider the following factors:

- (1) Whether the proposed zoning map amendment implements the policies of the adopted Comprehensive Plan, including the land use classification of the property on the Future Land Use and Development Plan Map, as amended.**

According to the map of Future Land Use and Development in Abilene's Comprehensive Plan, the subject property is located in and adjacent to an area designated as "a Major Commercial/Business Center".

(2) Whether the uses permitted by the proposed change in zoning classification and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified.

The uses that are being proposed are consistent with the current zoning patterns and the uses will be adequately buffered from other uses by the existing flood plain area on the south side of the property. Additionally, a 100-foot West Texas Utilities Company tract exists on the west side of Griffith Road is a buffer to the Abilene Christian University properties to the west.

(3) Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other public services and utilities to the area.

This subject property appears well-integrated with the City's system of sewer and water utilities.

(4) Any other factors, which will substantially affect the public health, safety, morals, or general welfare.

It is the opinion of City staff that no other factors are present that would substantially affect the public health, safety, morals, or general welfare.

Staff Recommendation

City staff recommends approval.

Notification

TABLE 1

Owner

Owner	Property ID	Situs	Response
ABILENE CHRISTIAN UNIVERSITY	1006308	1325 E AMBLER AV	
ABILENE CHRISTIAN UNIVERSITY	68723	1449 E AMBLER AV	
ABILENE INVESTMENTS LLC	31969	1525 Y E STAMFORD ST	
ABILENE INVESTMENTS LLC	31969	1525 E STAMFORD ST	
GRIFFITH LAKE ESTATES LLC	35099	2001 GRIFFITH RD	
GRIFFITH LAKE ESTATES LLC	980630		
RIK INVESTMENTS LLC NO 1	31841	1601 E STAMFORD ST	
WEST TEXAS UTILITIES CO	68246	1902 GRIFFITH RD	

Property ID

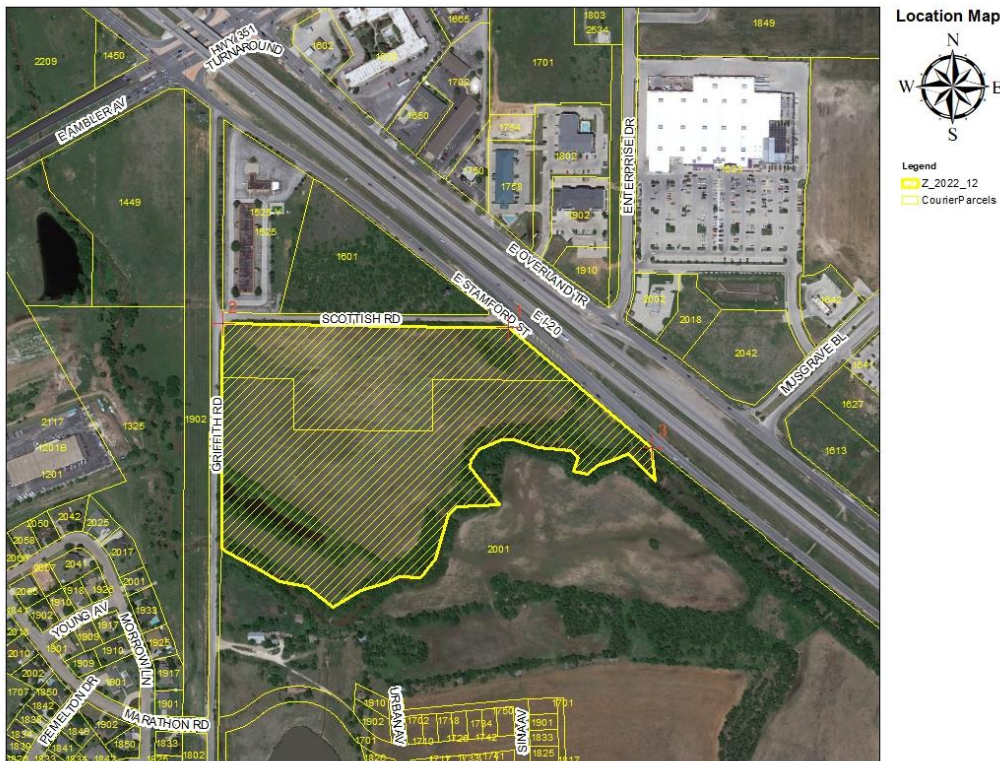
Owner	Property ID	Situs	Response
RIK INVESTMENTS LLC NO 1	31841	1601 E STAMFORD ST	
ABILENE INVESTMENTS LLC	31969	1525 Y E STAMFORD ST	
ABILENE INVESTMENTS LLC	31969	1525 E STAMFORD ST	
GRIFFITH LAKE ESTATES LLC	35099	2001 GRIFFITH RD	
WEST TEXAS UTILITIES CO	68246	1902 GRIFFITH RD	
ABILENE CHRISTIAN UNIVERSITY	68723	1449 E AMBLER AV	
GRIFFITH LAKE ESTATES LLC	980630		
ABILENE CHRISTIAN UNIVERSITY	1006308	1325 E AMBLER AV	

Attachments

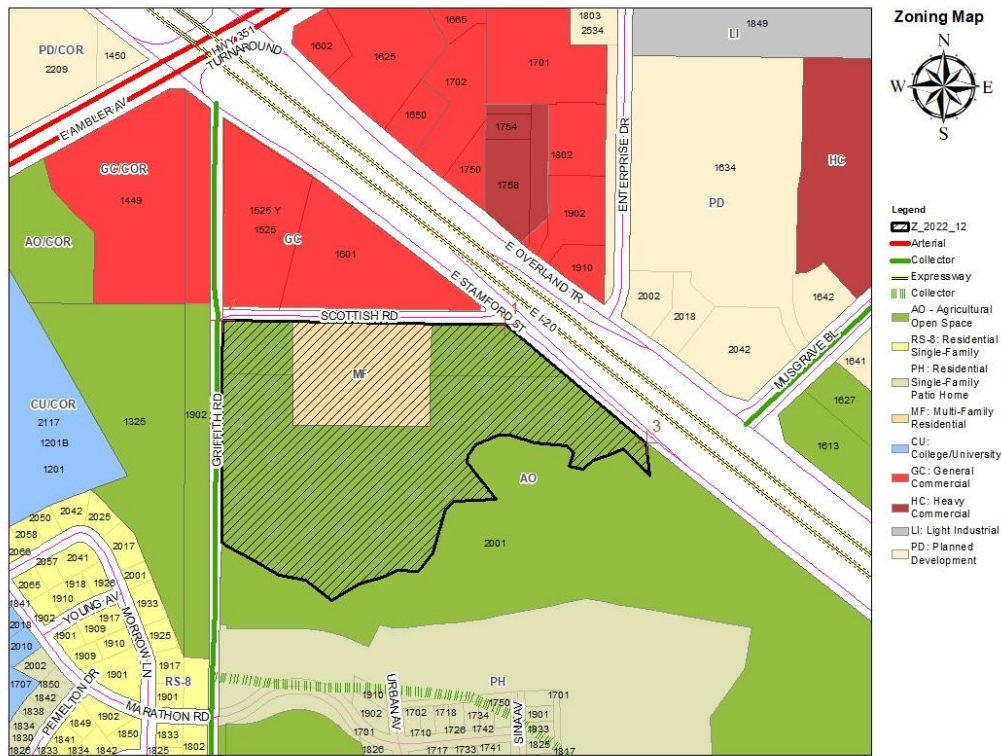
Application

PowerPoint Presentation

LOCATION MAP



ZONING MAP

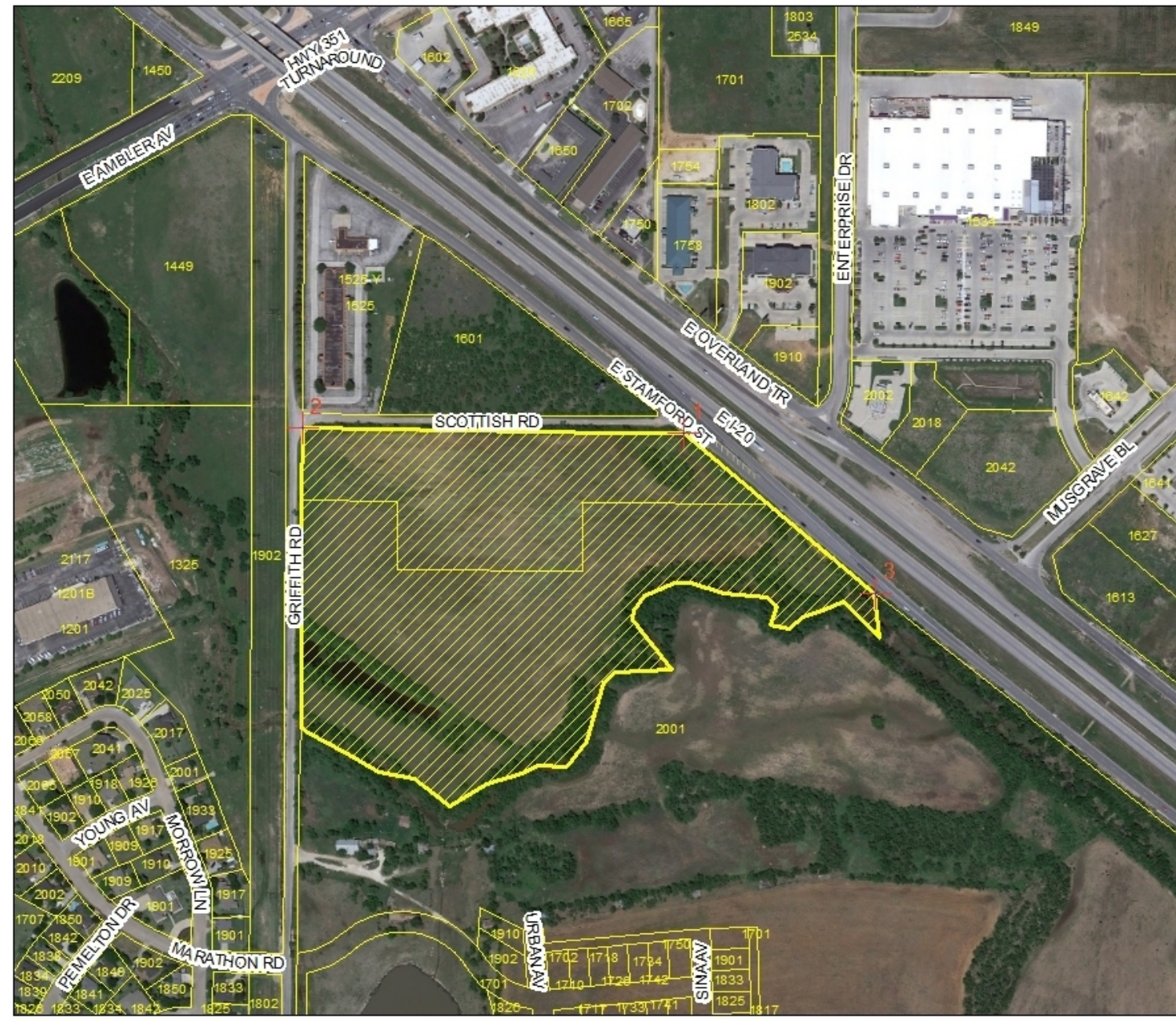


CONCEPT PLAN



Case:	Z-2022-12
Owner:	Griffith Lake Estates
Agent:	Jacob & Martin
Request:	Zoning request from “MF” Multi-Family and “AO” Agriculture Open to “MF” Multi-Family and “GR” General Retail
Location:	27.2 Acres of land of land south of Scottish Road between Griffith Road and East Stamford St. (East Interstate – 20 Service Road).
Notification:	0 in Favor, 0 Opposed
Planning & Zoning:	June 7, 2022
City Council Hearings:	1 st : June 23 rd , 2022 2 nd : July 14 th , 2022

Z-2022-12 LOCATION MAP

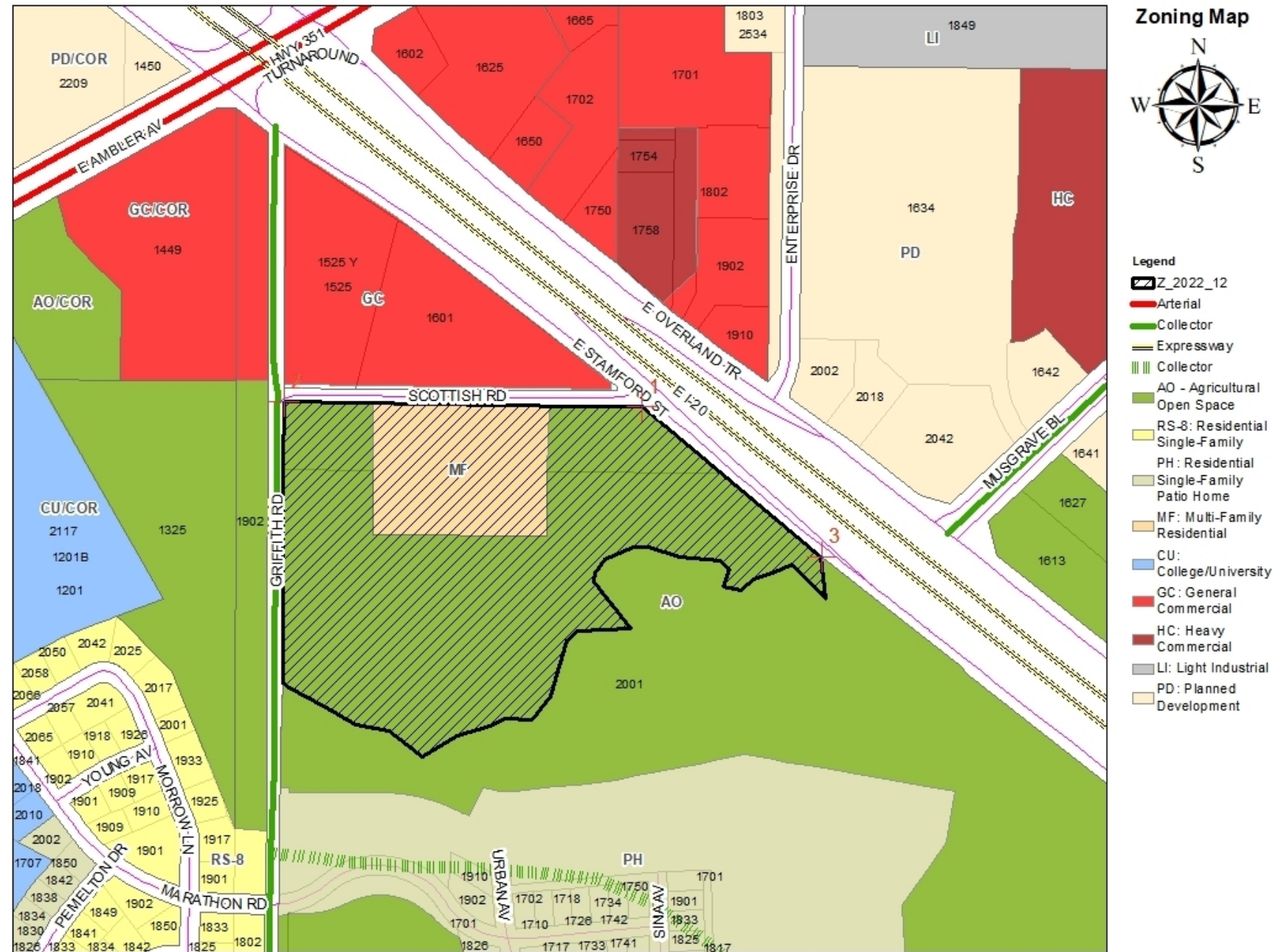


Location Map

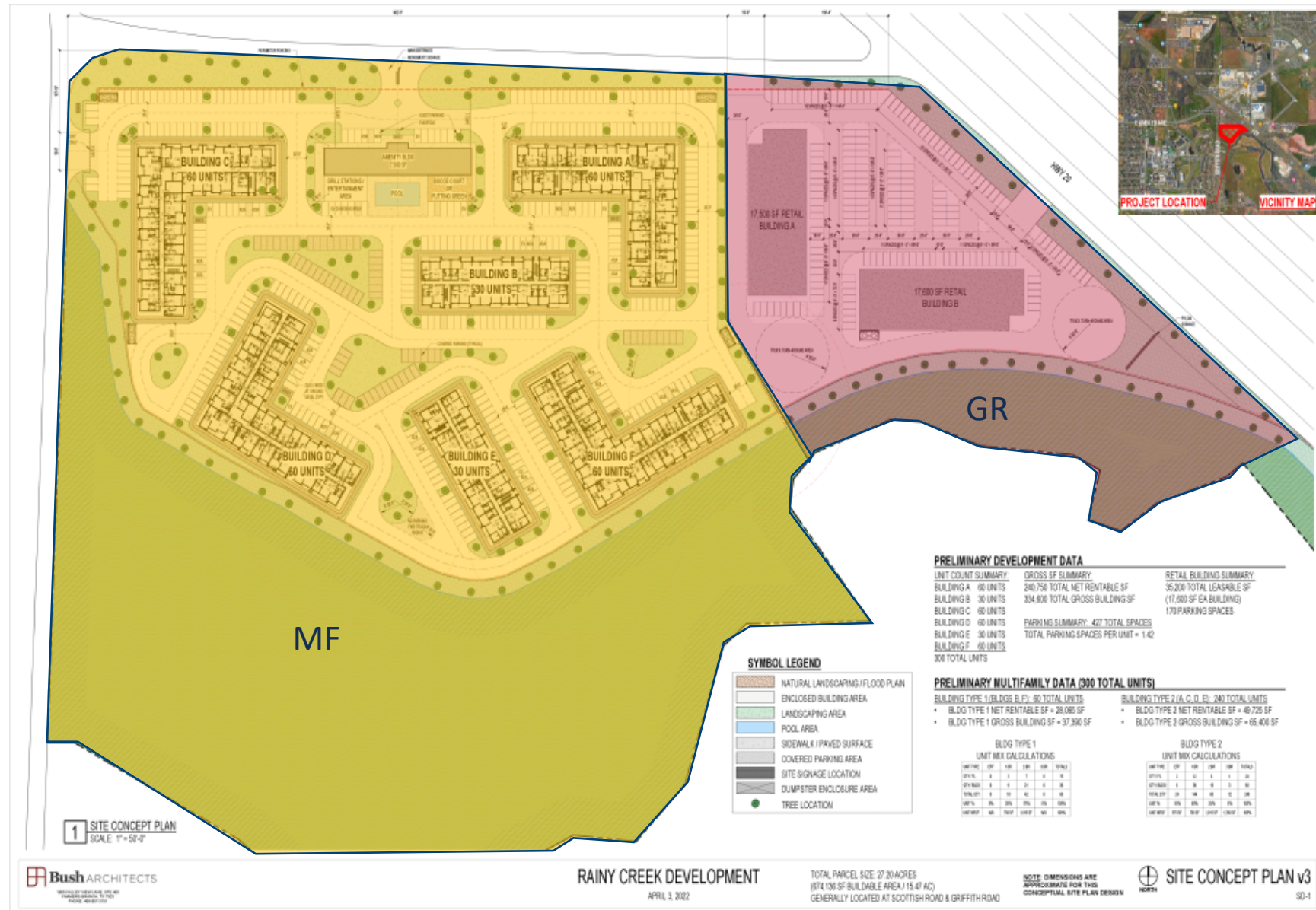
Legend

- Z_2022_12
- CourierParcels

Z-2022-12 ZONING MAP



Z-2022-12 CONCEPTUAL PLAN



CONCEPTUAL PLAN. MUST MEET ALL DEVELOPMENT STANDARDS

Permitted Uses in GR Zoning

RESIDENTIAL USES:

- P Bed & Breakfast
- P Dwelling – Industrialized Housing Unit
- P Dwelling – Institutional
- C Dwelling – Multiple-Family
- P Dwelling – Single Family Detached
- P Hotel/Motel

ACCESSORY AND INCIDENTAL USES:

- P Accessory Structure (Also see Division 4 of this article)
- P Antenna, Non-Commercial/Amateur
- P ATM's, Self-Serve Kiosks, and Similar Facilities
- P/C Day Care Operation – Home Based
- P Drive-Thru Facility
- TP Field Office or Construction Office (temporary)
- C Freight Container
- P Fuel Sales
- P Garage Sales
- P Home Occupation
- TP Itinerant Business
- P Manufacturing (incidental)
- TP Mobile Home (temporary security residence)
- P Recreation Building, Multipurpose
- P Recreation Equipment, Mobile (storage and parking)
- P Recycling Collection Point
- P Subdivision Sales Office (temporary)
- P Swimming Pools, Private (accessory to residential use)
- P Tennis Courts, Private (accessory to residential use)
- P/SE Wind Energy Conversion Systems

CULTURAL AND RECREATIONAL USES:

- P Civic, Social, and Fraternal Organization
- P Cultural Facilities
- C Recreation – Outdoors (active)
- P Recreation – Outdoors (passive)
- P Recreation and Commercial Entertainment - Indoor

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- C Ambulance Service
- P Fire/Police Station
- P Medical/Dental Laboratory
- P Post Office
- C Social Service Facility

EDUCATIONAL AND RELIGIOUS USES:

- P Arts School
- P Church or Place of Worship
- P Day-Care Operation - Center-Based
- P Educational and Scientific Research
- P School: Public/Private
- C Trade/Business School
- P University/College

SERVICE

- P/C Automobile Wash
- C Funeral Home/ Mortuary/Morgue
- P Kennel (Without Outdoor Pens)
- P Laundry/Dry Cleaning Services & Facilities
- P Office (general, professional, financial)
- P Personal Services
- C Printing, Copying, Reproduction, Publishing
- P Repair and Maintenance Services - Automobile/Small Truck (minor)
- P Repair and Maintenance Services (indoor)
- C Tattoo Parlor
- P Veterinary Service (small animals)

TRADE – RETAIL USES

- P ATM's, Self-Serve Kiosks, and Similar Facilities
- P Fuel Sales
- P Liquor Store (Off Premises Consumption) (*Defined under Liquor Store*)
- P Liquor Store (On Premises Consumption) (*Defined under Liquor Store*)
- P Restaurant, Brew Pub
- P Restaurant, Fast Food
- P Restaurant, Standard
- P Retail Sales/Rental (indoor)
- C Retail Sales/Rental (outdoors, non-vehicle)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- C Antenna Tower- Commercial
- P Automobile Parking Lot or Structure - Commercial
- P Broadcast Studio
- P Public Utility Facility

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Petroleum or Gas Well
- P Urban Garden

LEGEND

P
C
TP

Permitted as a Right-of-Use (may be subject to compliance with conditions described within Division 3- Requirements Applicable to Specific Land Uses of the Land Development Code)
Permitted as a Conditional Use Permit, Requiring Approval by City Council
Permitted by Temporary Permit Only, Requiring Approval by Board of Adjustment

Permitted Uses in MF Zoning

RESIDENTIAL USES:

- C Bed & Breakfast
- P Dwelling – Duplex
- P Dwelling – Industrialized Housing Unit
- P Dwelling – Institutional
- P Dwelling – Multiple-Family
- P Dwelling – Single-Family Detached
- C Group Home

ACCESSORY AND INCIDENTAL USES:

- P Accessory Structure (Also see Division 4 of this article)
- P Antenna, Non-Commercial/Amateur
- P/C Day Care Operation – Home-Based
- TP Field Office or Construction Office (temporary)
- P Garage Sale
- P Home Occupation
- C Mobile Home (temporary security residence)
- P Recreation Building, Multipurpose
- P Recreation Equipment, Mobile (storage & parking)
- TP Subdivision Sales Office (temporary)
- P Swimming Pool, Private (accessory to residential use)
- P Tennis Court, Private (accessory to residential use)
- P/SE Wind Energy Conversion Systems

CULTURAL AND RECREATIONAL USES:

- C Civic, Social, and Fraternal Organization
- C Recreation – Outdoors (active)
- P Recreation – Outdoors (passive)

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- P Community Home
- P Fire/Police Station
- C Homeless/Emergency Shelter
- C Personal Care Facility
- C Rehabilitation Facility
- C Social Service Facility

EDUCATIONAL AND RELIGIOUS USES:

- P Church or Place of Worship
- C Day-Care Operation - Center-Based
- P School: Public/Private

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- P Public Utility Facility

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Petroleum or Gas Well
- P Urban Garden

LEGEND

P
C
TP

Permitted as a Right-of-Use (may be subject to compliance with conditions described within Division 3- Requirements Applicable to Specific Land Uses of the Land Development Code)
Permitted as a Conditional Use Permit, Requiring Approval by City Council
Permitted by Temporary Permit Only, Requiring Approval by Board of Adjustment

Z-2022-12 VIEWS OF SUBJECT & ADJACENT PROPERTIES

East View



North View



West View

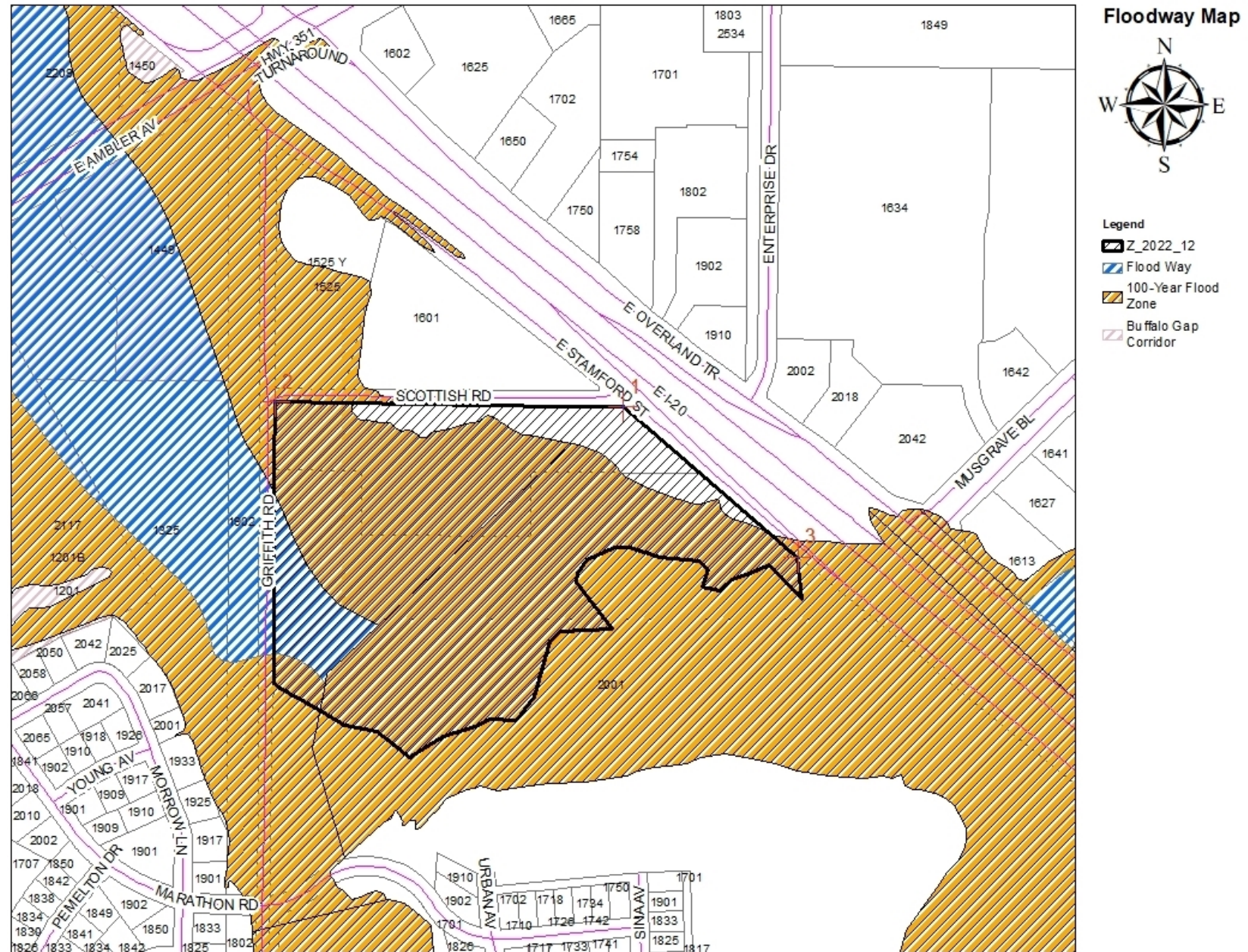


Neighboring Property (West)

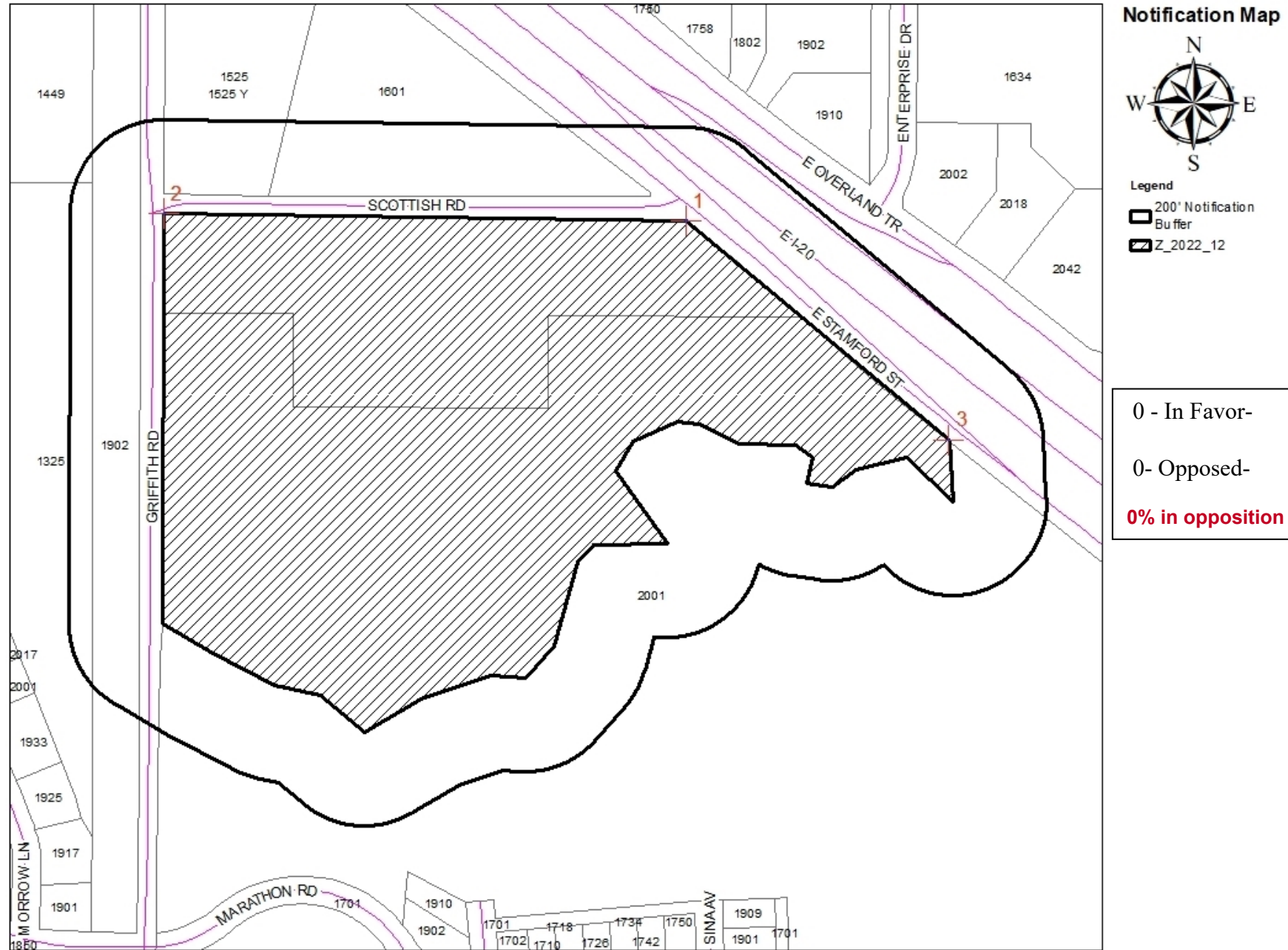


Neighboring Property (North)





Z-2022-12 NOTIFICATION AREA MAP



- Consistent with the *Comprehensive Plan* and *Future Land Use and Development Plan Map*
- Reviewed Pursuant to Section 1.4.1.4 of Land Development Code (Criteria for Approval)
- P&Z Recommends: Approval
- Staff Recommendation: Approval.

Questions?



**City Council
Agenda Memo**

City Council Meeting Date: 6/23/2022

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **10. Ordinance (First Reading) Z-2022-13:** Receive a Report, Hold a Discussion and Take Action on A Request From PB 6950, LLC Represented By Jacob & Martin, LLC To Change The Zoning Of Approximately 36.5 Acres From Residential Multi-Family (MF), Office (O), And Agricultural Open (AO) To General Retail (GR), Residential Multi-Family (MF) And General Commercial (GC) *(Tim Littlejohn)*

GENERAL INFORMATION

The request is to rezone from Residential Multi-Family (MF), Office (O), and Agricultural Open Space (AO) to General retail (GR), Residential Multi-Family (MF), and General Commercial (GC) Districts allowing uses commensurate with General Retail (GR), General Commercial (GC), and Residential Multi-Family (MF).

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Approval

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval by a vote of 6-0.

ATTACHMENTS:

1. Z-2022-13 Council Ordinance
2. Z-2022-13 Staff Report
3. Z-2022-13 PZC presentation

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE "LAND DEVELOPMENT CODE" OF THE ABILENE CITY CODE, CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTY; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 2 (Zoning Regulations) of the Land Development Code of the City of Abilene, is hereby amended by changing zoning district boundaries as set out in Exhibit A, attached hereto and made a part of this ordinance for all purposes.

PART 2: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PART 3: That the Planning Director be, and is hereby authorized and directed to change the official Zoning Map of the City of Abilene to correctly reflect the amendments thereto.

PASSED ON FIRST READING the 23th day of June, 2022.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 21st day of May, 2022, the same being more than fifteen (15) days prior to a public hearing held at the Council Chambers of the City Hall at 555 Walnut St. in Abilene, Texas, at 8:30 a.m. on the 14th day of July, 2022, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FINAL READING THIS 14th day of July, 2022.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

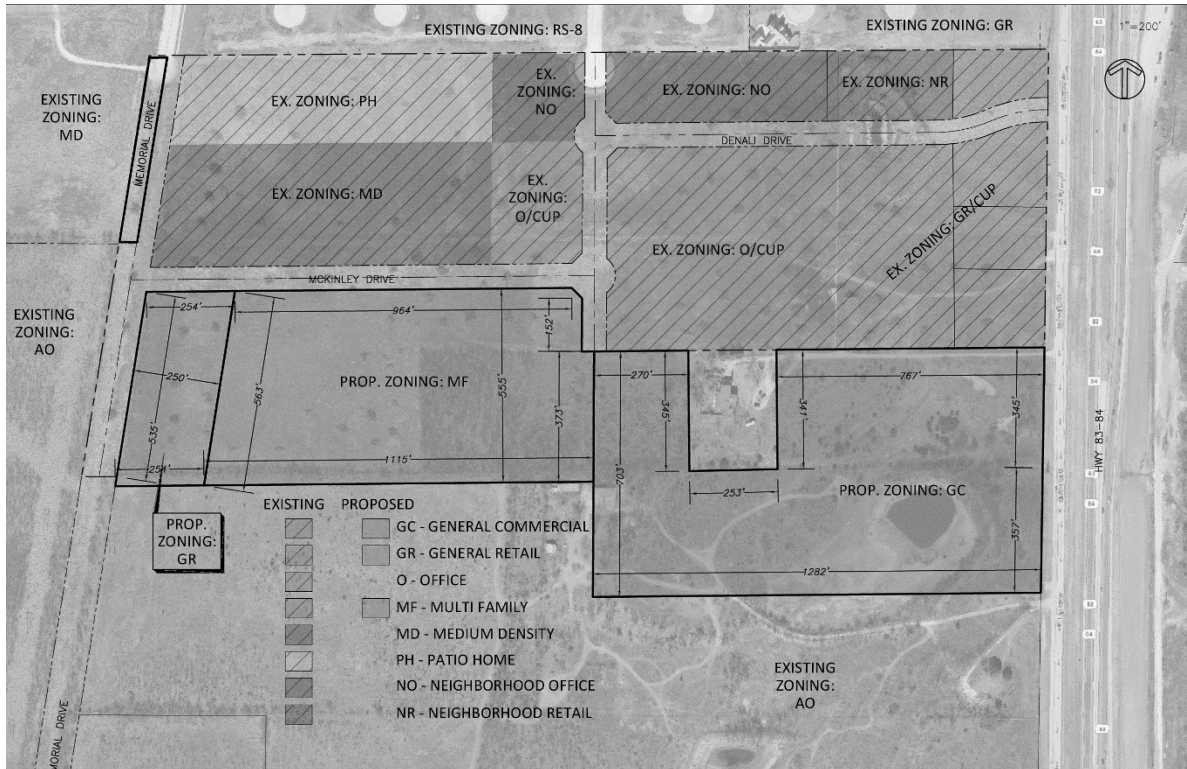
CITY ATTORNEY

ORDINANCE NO. _____

EXHIBIT A

Change the zoning classification of the following described land, from Residential Multi-Family (MF), Office (O), and Agricultural Open Space (AO) to a Residential Multi-Family (MF), General Retail (GR), and General Commercial (GC) zoning district:

Metes and bounds to be added before final reading



-END-

ZONING CASE Z-2022-13

STAFF REPORT



Scheduled Hearings

Planning & Zoning Commission: June 7, 2022

City Council 1st Reading: June 23, 2022

City Council 2nd Reading: July 14, 2022

Applicant

Owner: PB 6950, LLC

Agent: Jacob & Martin

Request

Rezone from Residential Multi-Family (MF), Office (O), and Agricultural Open Space (AO) to General retail (GR), Residential Multi-Family (MF), and General Commercial (GC) Districts allowing uses commensurate with General Retail (GR), General Commercial (GC), and Residential Multi-Family (MF).

Location

7450 HWY 83-84, being 41.3417 acres of now-vacant land on the south side of McKinley Dr. and a tract of land either side of Horse Head Crossing between Memorial Drive and State Highway 83-84.

Background

This property was annexed to the City limits of Abilene during 1980. This property has remained vacant since being annexed into the City of Abilene. The subject property is bounded by Memorial Dr. on the west, McKinley Dr. on the north and HWY 83-84 on the east. An extension of Horsehead Crossing will bisect the subject property.

Zoning and Existing Land Use

Current zoning and existing land use of properties adjacent to and in the subject property's immediate area are illustrated on the map included in this report. As indicated on the map, properties on the western portion of the property and on the north of McKinley Dr. are Residential Medium Density and Office with the eastern portion of the property Office and General retail. South and west of the subject property the zoning is Agricultural Open (AO) district. Between Denali and the subject property apartments are being constructed with a density of approximately 17 units to the acre. The request does surround a lone single-family house on three sides.

Criteria Assessment

Section 1.4.1.4 of Abilene's Land Development Code states that, in making a determination regarding a requested zoning change, the Planning and Zoning Commission and the City Council may consider the following factors:

(1) Whether the proposed zoning map amendment implements the policies of the adopted Comprehensive Plan, including the land use classification of the property on the Future Land Use and Development Plan Map, as amended.

The Future Land Use and Development Plan Map displayed in Abilene's Comprehensive Plan identifies the subject property and its surroundings to be in a "Multi-Family Use" area with a Community Enhancement Corridor along the frontage of HWY 83-84. This proposed zoning request seems generally consistent with the land-use policies of Abilene's Comprehensive Plan.

(2) Whether the uses permitted by the proposed change in zoning classification and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified.

It is the opinion of the staff that the uses permitted by the proposed zone change are consistent with the surrounding properties in the immediate vicinity.

(3) Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other public services and utilities to the area.

The subject property lies at the intersection of Hwy 83-84 with Denali Dr. with connection to Horse Head Crossing and McKinley Dr. to Memorial Dr. Furthermore, the subject property has direct access to 8" sanitary sewer mains and a 8" water main. The development of this site may require additional public improvements.

(4) Any other factors, which will substantially affect the public health, safety, morals, or general welfare.

It is the opinion of City staff that no other factors are present that would substantially affect the public health, safety, morals, or general welfare.

Staff Recommendation

City staff recommends **approving** this requested zone change to General retail (GR), Residential Multi-Family (MF), and General Commercial (GC) Districts allowing uses commensurate with General Retail (GR), General Commercial (GC), and Residential Multi-Family (MF).

Notification

Pursuant to Section 1.2.2.2 of Abilene's Land Development Code, City staff mailed personal notices on May 24th, of 2022, to the applicant and to other owners of property within a 200-foot radius of this subject property. These property owners and associated parcel identification numbers are identified in Table 1.

TABLE 1**Owner**

Owner	Property ID	Situs	Response
	1079390	6817X HORSE HEAD CROSSING	
ER PROPCO WC LLC	968668	2617 ANTILLEY RD	
ER PROPCO WC LLC	968668	2617 A ANTILLEY RD	
ER PROPCO WC LLC	968668	2617 B ANTILLEY RD	
PARKER CYNTHIA	13583		
PB 6950 LLC	14249	7050 HWY 83-84	
PB 6950 LLC	37863		
PB 6950 LLC	37975		
PB 6950 LLC	13695	7450 HWY 83-84	
PB 6950 LLC	1083716		

Property ID

Owner	Property ID	Situs	Response
PARKER CYNTHIA	13583		
PB 6950 LLC	13695	7450 HWY 83-84	
PB 6950 LLC	14249	7050 HWY 83-84	
PB 6950 LLC	37863		
PB 6950 LLC	37975		
ER PROPCO WC LLC	968668	2617 ANTILLEY RD	
ER PROPCO WC LLC	968668	2617 A ANTILLEY RD	
ER PROPCO WC LLC	968668	2617 B ANTILLEY RD	
	1079390	6817X HORSE HEAD CROSSING	
PB 6950 LLC	1083716		

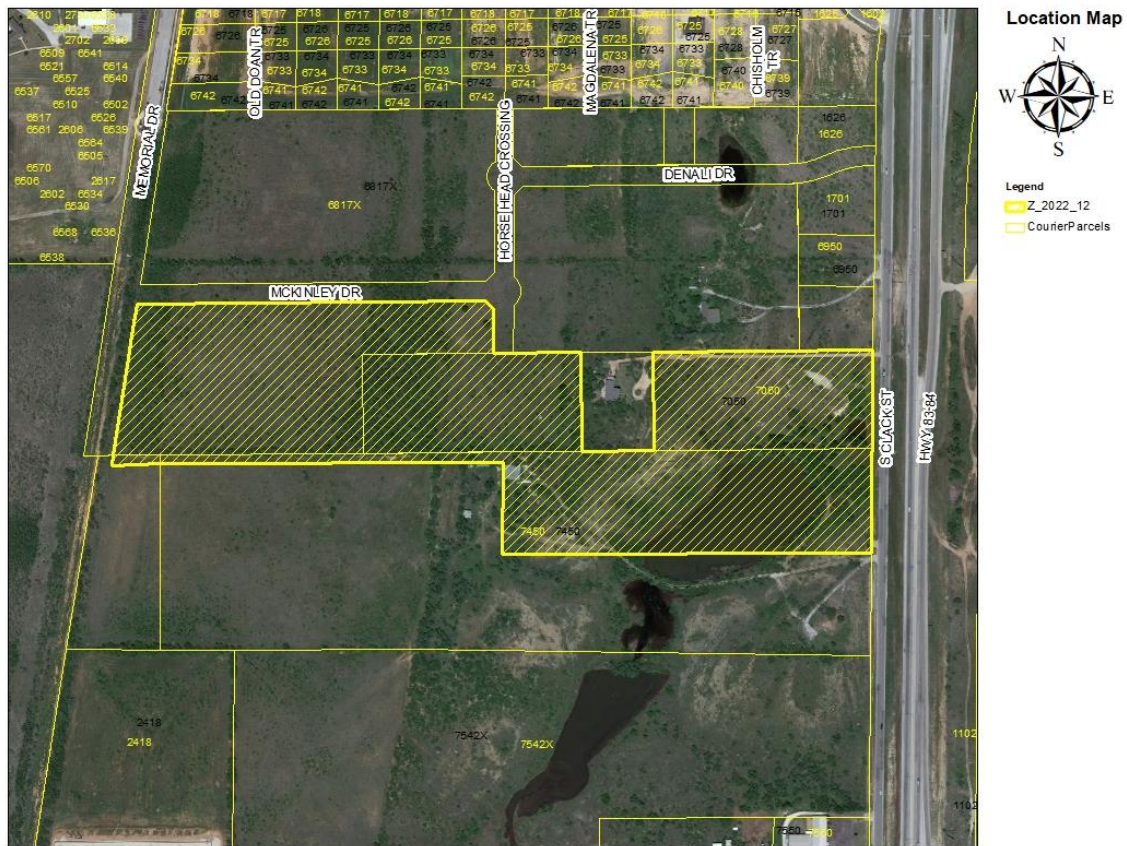
Attachments

Application

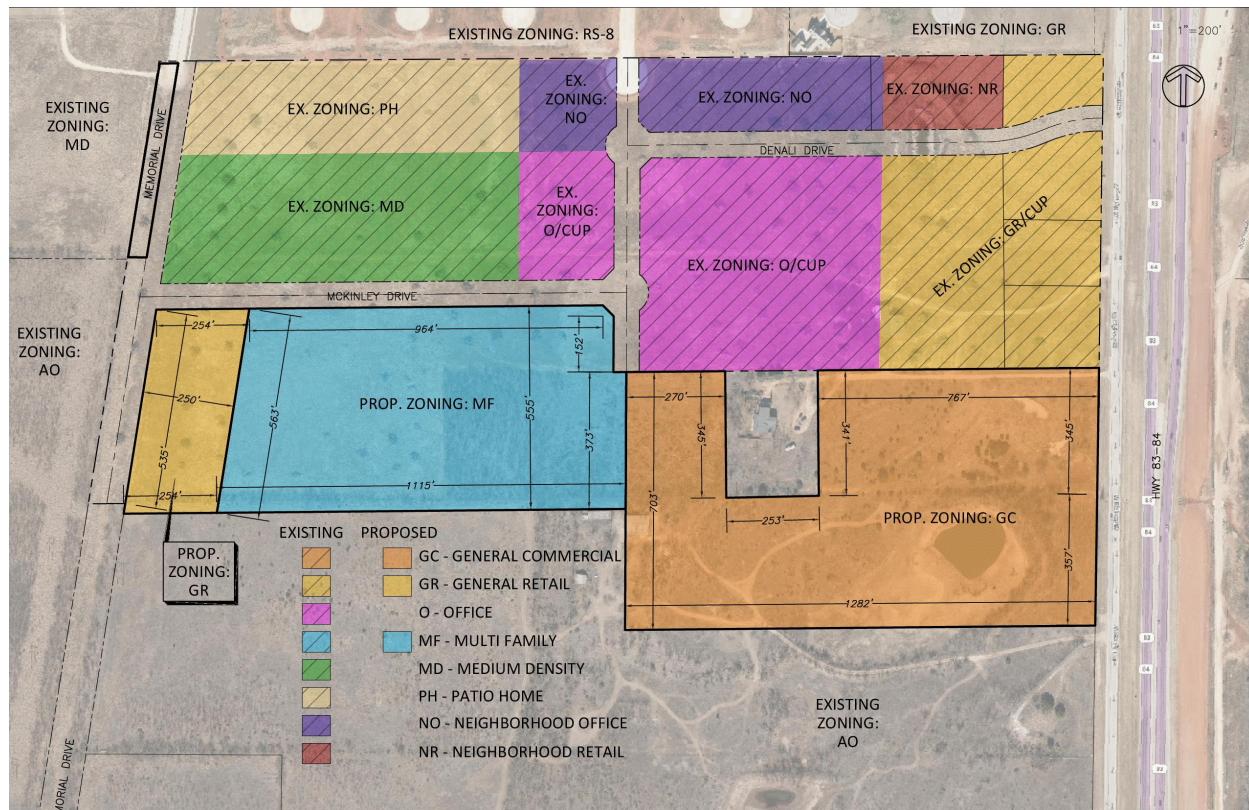
PowerPoint Presentation

Graphic Concept Plan

LOCATION MAP



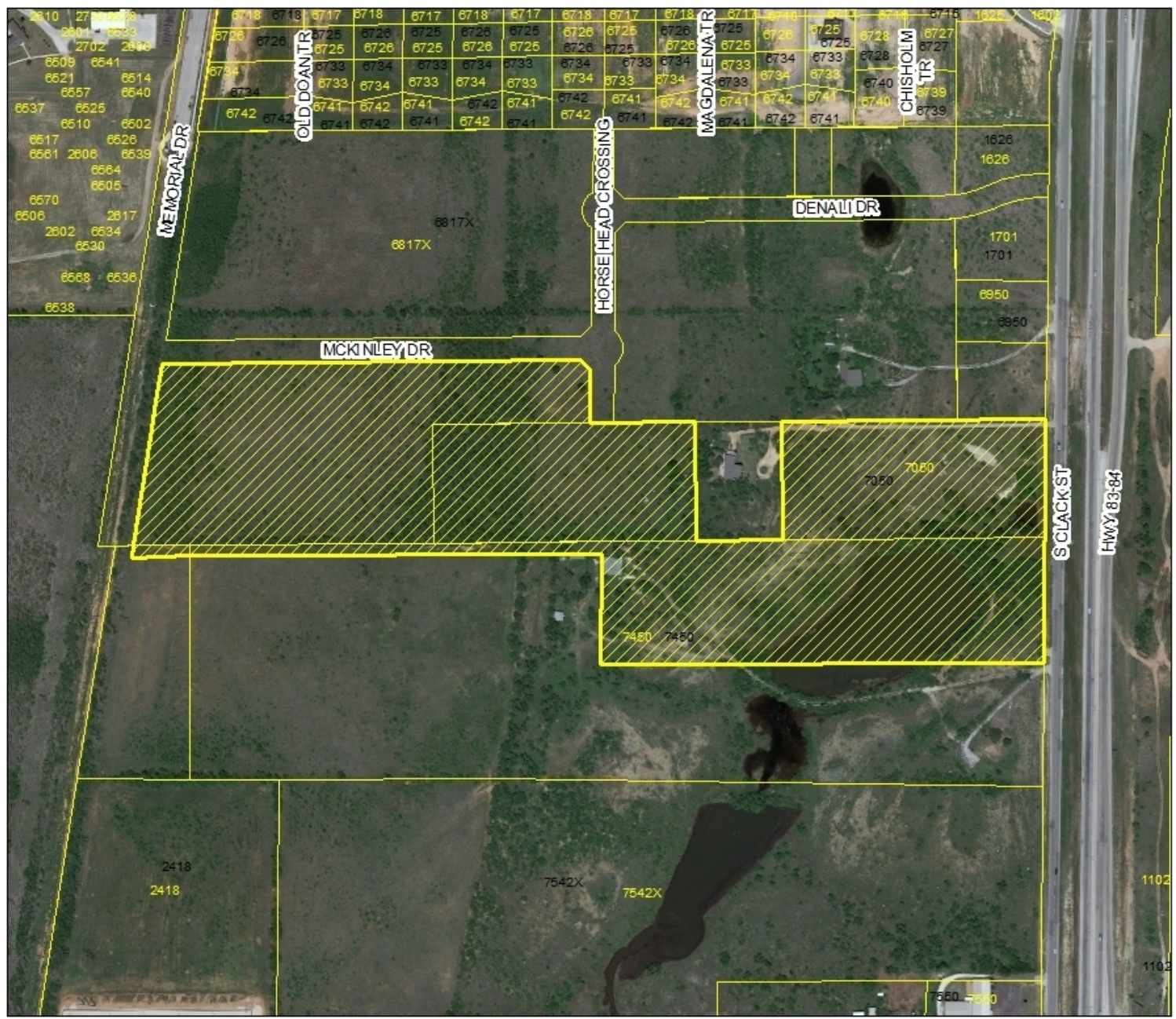
ZONING MAP



ZONING REQUEST

Case:	Z-2022-13
Owner:	PB 6950, LLC
Agent:	Jacob & Martin
Request:	Rezone from Residential Multi-Family (MF), Office (O), and Agricultural Open Space (AO) to General retail (GR), Residential Multi-Family (MF), and General Commercial (GC) Districts allowing uses commensurate with General Retail (GR), General Commercial (GC), and Residential Multi-Family (MF).
Location:	41.3417 Acres of land located at 7450 HWY 83-84,
Notification:	0 in Favor, 0 Opposed
Planning & Zoning:	June 7, 2022
City Council Hearings:	1 st : June 23 rd , 2022 2 nd : July 14 th , 2022

Z-2022-13 LOCATION MAP

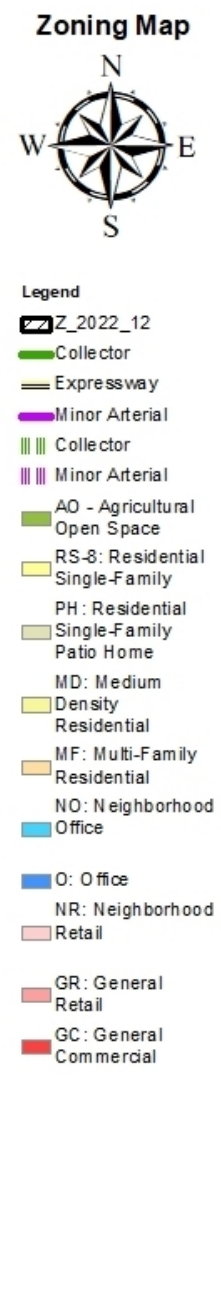


Location Map

Legend

- Z_2022_12
- CourierParcels

Z-2022-13 CURRENT ZONING MAP



EXISTING ZONING: RS-8

EXISTING ZONING: GR

1"=200'

EXISTING ZONING: MD

MEMORIAL DRIVE

EX. ZONING: PH

EX. ZONING: NO

EX. ZONING: NO

EX. ZONING: NR

DENALI DRIVE

EX. ZONING: MD

EX. ZONING: O/CUP

EX. ZONING: O/CUP

EX. ZONING: GR/CUP

MCKINLEY DRIVE

EXISTING ZONING: AO

254'

964'

152'

563'

555'

373'

1115'

250'

535'

254'

270'

345'

767'

341'

253'

1282'

345'

357'

703'

PROP. ZONING: MF

PROP. ZONING: GC

PROP. ZONING: GR

EXISTING	PROPOSED
	GC - GENERAL COMMERCIAL
	GR - GENERAL RETAIL
	O - OFFICE
	MF - MULTI FAMILY
	MD - MEDIUM DENSITY
	PH - PATIO HOME
	NO - NEIGHBORHOOD OFFICE
	NR - NEIGHBORHOOD RETAIL

EXISTING ZONING: AO

HWY 83-84

Page 167 of 286

Permitted Uses in GR Zoning

RESIDENTIAL USES:

- P Bed & Breakfast
- P Dwelling – Industrialized Housing Unit
- P Dwelling – Institutional
- C Dwelling – Multiple-Family
- P Dwelling – Single Family Detached
- P Hotel/Motel

ACCESSORY AND INCIDENTAL USES:

- P Accessory Structure (Also see Division 4 of this article)
- P Antenna, Non-Commercial/Amateur
- P ATM's, Self-Serve Kiosks, and Similar Facilities
- P/C Day Care Operation – Home Based
- P Drive-Thru Facility
- TP Field Office or Construction Office (temporary)
- C Freight Container
- P Fuel Sales
- P Garage Sales
- P Home Occupation
- TP Itinerant Business
- P Manufacturing (incidental)
- TP Mobile Home (temporary security residence)
- P Recreation Building, Multipurpose
- P Recreation Equipment, Mobile (storage and parking)
- P Recycling Collection Point
- P Subdivision Sales Office (temporary)
- P Swimming Pools, Private (accessory to residential use)
- P Tennis Courts, Private (accessory to residential use)
- P/SE Wind Energy Conversion Systems

CULTURAL AND RECREATIONAL USES:

- P Civic, Social, and Fraternal Organization
- P Cultural Facilities
- C Recreation – Outdoors (active)
- P Recreation – Outdoors (passive)
- P Recreation and Commercial Entertainment - Indoor

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- C Ambulance Service
- P Fire/Police Station
- P Medical/Dental Laboratory
- P Post Office
- C Social Service Facility

EDUCATIONAL AND RELIGIOUS USES:

- P Arts School
- P Church or Place of Worship
- P Day-Care Operation - Center-Based
- P Educational and Scientific Research
- P School: Public/Private
- C Trade/Business School
- P University/College

SERVICE

- P/C Automobile Wash
- C Funeral Home/ Mortuary/Morgue
- P Kennel (Without Outdoor Pens)
- P Laundry/Dry Cleaning Services & Facilities
- P Office (general, professional, financial)
- P Personal Services
- C Printing, Copying, Reproduction, Publishing
- P Repair and Maintenance Services - Automobile/Small Truck (minor)
- P Repair and Maintenance Services (indoor)
- C Tattoo Parlor
- P Veterinary Service (small animals)

TRADE – RETAIL USES

- P ATM's, Self-Serve Kiosks, and Similar Facilities
- P Fuel Sales
- P Liquor Store (Off Premises Consumption) (*Defined under Liquor Store*)
- P Liquor Store (On Premises Consumption) (*Defined under Liquor Store*)
- P Restaurant, Brew Pub
- P Restaurant, Fast Food
- P Restaurant, Standard
- P Retail Sales/Rental (indoor)
- C Retail Sales/Rental (outdoors, non-vehicle)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- C Antenna Tower- Commercial
- P Automobile Parking Lot or Structure - Commercial
- P Broadcast Studio
- P Public Utility Facility

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Petroleum or Gas Well
- P Urban Garden

LEGEND

P
C
TP

Permitted as a Right-of-Use (may be subject to compliance with conditions described within Division 3- Requirements Applicable to Specific Land Uses of the Land Development Code)
Permitted as a Conditional Use Permit, Requiring Approval by City Council
Permitted by Temporary Permit Only, Requiring Approval by Board of Adjustment

Permitted Uses in MF Zoning

RESIDENTIAL USES:

- C Bed & Breakfast
- P Dwelling – Duplex
- P Dwelling – Industrialized Housing Unit
- P Dwelling – Institutional
- P Dwelling – Multiple-Family
- P Dwelling – Single-Family Detached
- C Group Home

ACCESSORY AND INCIDENTAL USES:

- P Accessory Structure (Also see Division 4 of this article)
- P Antenna, Non-Commercial/Amateur
- P/C Day Care Operation – Home-Based
- TP Field Office or Construction Office (temporary)
- P Garage Sale
- P Home Occupation
- C Mobile Home (temporary security residence)
- P Recreation Building, Multipurpose
- P Recreation Equipment, Mobile (storage & parking)
- TP Subdivision Sales Office (temporary)
- P Swimming Pool, Private (accessory to residential use)
- P Tennis Court, Private (accessory to residential use)
- P/SE Wind Energy Conversion Systems

CULTURAL AND RECREATIONAL USES:

- C Civic, Social, and Fraternal Organization
- C Recreation – Outdoors (active)
- P Recreation – Outdoors (passive)

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- P Community Home
- P Fire/Police Station
- C Homeless/Emergency Shelter
- C Personal Care Facility
- C Rehabilitation Facility
- C Social Service Facility

EDUCATIONAL AND RELIGIOUS USES:

- P Church or Place of Worship
- C Day-Care Operation - Center-Based
- P School: Public/Private

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- P Public Utility Facility

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Petroleum or Gas Well
- P Urban Garden

LEGEND

P
C
TP

Permitted as a Right-of-Use (may be subject to compliance with conditions described within Division 3- Requirements Applicable to Specific Land Uses of the Land Development Code)
Permitted as a Conditional Use Permit, Requiring Approval by City Council
Permitted by Temporary Permit Only, Requiring Approval by Board of Adjustment

Permitted Uses in GC Zoning

RESIDENTIAL USES:

- P Hotel/Motel
- C Vacation Travel Trailer Park

ACCESSORY AND INCIDENTAL USES:

- P Accessory Structure (Also see Division 4 of this article)
- P Antenna, Non-Commercial/Amateur
- P ATM's, Self-Serve Kiosks, and Similar Facilities
- P Drive-Thru Facility
- TP Field Office or Construction Office (temporary)
- C Freight Container
- P Fuel Sales
- TP Itinerant Business
- P Manufacturing (incidental)
- C Mobile Home (permanent security residence)
- TP Mobile Home (temporary security residence)
- C Mobile Home or Temporary Building (office for sales and service)
- P Recycling Collection Point
- C Travel Trailers (accessory to hospitals)
- P/SE Wind Energy Conversion Systems

CULTURAL AND RECREATIONAL USES:

- P Civic, Social, and Fraternal Organization
- P Cultural Facilities
- P Drive-in Theater
- P Recreation – Outdoors (active)
- P Recreation – Outdoors (passive)
- P Recreation and Commercial Entertainment – Indoor

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- P Ambulance Service
- P Fire/Police Station
- C Homeless/Emergency Shelter
- P Hospital
- P Medical/Dental Laboratory
- P Post Office
- C Rehabilitation Facility
- P Social Service Facility

EDUCATIONAL AND RELIGIOUS USES:

- P Arts School
- C Cemetery, Crematorium, and Mausoleum
- P Church or Place of Worship
- P Day-Care Operation - Center-Based
- P Educational and Scientific Research
- P School: Public/Private
- P Trade/Business School
- P University/College

SERVICE

- P/C Automobile Wash
- C Contractor Services
- P Funeral Home/ Mortuary/Morgue
- C Kennel (With Outdoor Pens)
- P Kennel (Without Outdoor Pens)
- P Laundry, Dry Cleaning, Dyeing, and Linen Service (no retail customers)
- P Laundry/Dry Cleaning Services & Facilities
- P Office (general, professional, financial)
- P Personal Services
- P Printing, Copying, Reproduction, Publishing
- C Recycling Collection and Processing Center
- P Repair and Maintenance Services - Automobile/Small Truck (major)
- P Repair and Maintenance Services - Automobile/Small Truck (minor)
- P Repair and Maintenance Services (indoor)
- C Repair and Maintenance Services (outdoors)
- P Storage - Self-Service Units
- P Tattoo Parlor
- P Taxidermist
- P Veterinary Service (small animals)

TRADE – RETAIL USES

- C Aircraft and Accessories
- P ATM's, Self-Serve Kiosks, and Similar Facilities
- P Fuel Sales
- P Liquor Store (Off Premises Consumption) (*Defined under Liquor Store*)
- P Liquor Store (On Premises Consumption) (*Defined under Liquor Store*)
- P Restaurant, Brew Pub
- P Restaurant, Fast Food
- P Restaurant, Standard
- P Retail Sales/Rental (automobile/small truck)
- P Retail Sales/Rental (indoor)
- P Retail Sales/Rental (outdoors, non-vehicle)
- C Retail Sales/Rental (trucks and other large vehicles and equipment)

TRADE – WHOLESALE USES

- C Wholesaling and Storage (indoor)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- C Antenna Tower - Commercial
- P Automobile Parking Lot or Structure - Commercial
- P Broadcast Studio
- P Passenger Ground Transportation Terminal
- P Pressure Control Station
- P Public Utility Facility

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Petroleum or Gas Well
- P Urban Garden

LEGEND

- P
- C
- TP

Permitted as a Right-of-Use (may be subject to compliance with conditions described within Division 3- Requirements Applicable to Specific Land Uses of the Land Development Code)

Permitted as a Conditional Use Permit, Requiring Approval by City Council

Permitted by Temporary Permit Only, Requiring Approval by Board of Adjustment

Z-2022-13 VIEWS OF SUBJECT & ADJACENT PROPERTIES

Subject Property East View



Subject Property South View



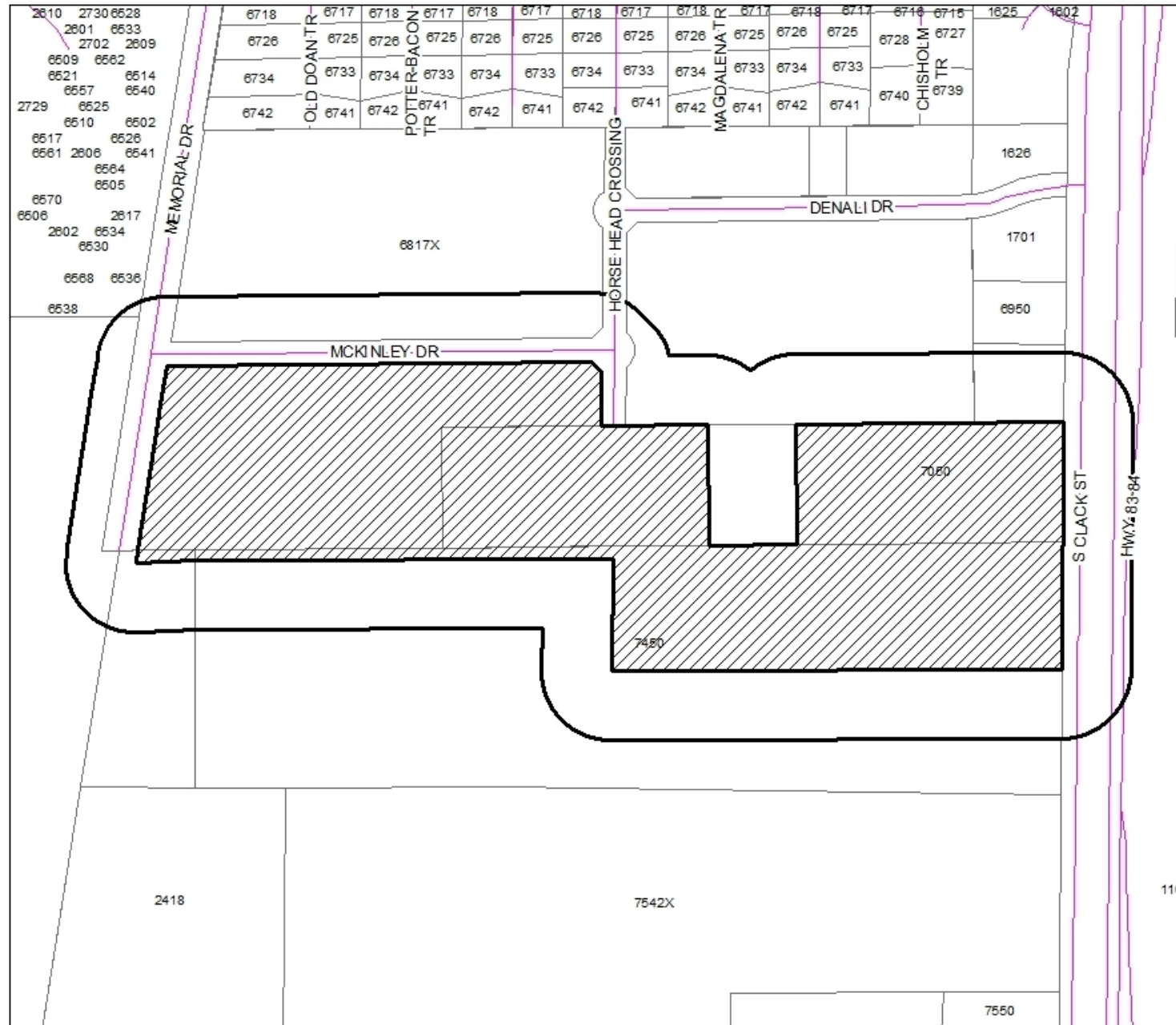
Subject Property Northwest View



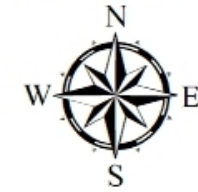
Subject Property West View



Z-2022-13 NOTIFICATION AREA MAP



Notification Map



Legend

- Z_2022_12_Buf...
- Z_2022_12

0 - In Favor-

0- Opposed-

0% in opposition

- Consistent with the *Comprehensive Plan* and *Future Land Use and Development Plan Map*
- Reviewed Pursuant to Section 1.4.1.4 of Land Development Code (Criteria for Approval)
- P&Z Recommends: Approval
- Staff Recommendation: Staff recommends approval.

Questions?



**City Council
Agenda Memo**

City Council Meeting Date: 6/23/2022

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **11. Ordinance (First Reading) CUP-2022-04: Receive a Report, Hold a Discussion and Take Action on A Request From Windmill Circle Apartments LLC (Represented By Enprotec/Hibbs & Todd, Engineering Consultants) For Approval Of A Conditional Use Permit Allowing Multi-Family Residential Buildings On Approximately 15 Acres Of Now-Vacant Land In A General Retail (GR) District At 28 Thru 36 Windmill Circle And At 5601 Memorial Drive In South Abilene. (Tim Littlejohn)**

GENERAL INFORMATION

The request is to Add a Conditional Use Permit (CUP) to allow Multiple-Family (MF) dwellings on approximately 14.95 acres of property zoned General Retail (GR).

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval with conditions as recommended by P & Z.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval of this request with conditions by a vote of 5-2. The conditions are as stated: The proposed Multiple-Family dwellings that are adjacent to Memorial Drive and those adjacent to the northern property line should have a height

restriction of two (2) stories. A Type A buffer will be installed along the northern property line. Additionally, a masonry fence of seven feet (7') in height will serve as a barrier on the Memorial Drive side of the property.

ATTACHMENTS:

1. CUP-2022-03 Council Ordinance
2. CUP-2022-04 Staff Report
3. 3034 Broken Bough Trail
4. 57851-2342 Antilley Road
5. 5718 Legacy Drive
6. 5749 Legacy Drive
7. 5809 Legacy
8. 5818 Legacy Drive
9. 5833 Legacy Drive
10. 5834 Legacy Drive
11. 5841 Legacy Drive
12. 24248-21 Windmill Circle
13. 983065-23 Windmill Circle
14. 1010923-5725 Legacy Drive
15. 1010930-5825 Legacy Drive
16. 1010933-5849 Legacy Drive
17. 1010934-5901 Legacy Drive
18. Abby Speed
19. Combined Responses (15)
20. ID# 1010926, 1010925
21. ID# 1010935, 1010928, 24379
22. Legacy Village HOA Board
23. 2302 Ians Ct
24. 2309 Preston Trail
25. 2317 Ians Court
26. 2317 Preston Trl
27. 2325 Biltmore Court
28. 2333 Lynbrook Drive
29. 2334 Preston Trail
30. 2418 Spyglass Hill Court Amber Letter
31. 2418 Spyglass Hill Court Jonathan Letter
32. 5258 Wyndham Court
33. 5266 Wyndham Ct
34. 5602 Legacy Drive
35. 5618 Legacy Drive
36. 5626 Legacy Drive
37. CUP-2022-04 Presentation

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE "LAND DEVELOPMENT CODE" OF THE ABILENE CITY CODE, BY APPROVING A CONDITIONAL USE PERMIT (CUP) AFFECTING CERTAIN PROPERTY; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 2 (Zoning Regulations) of the Land Development Code of the City of Abilene, is hereby amended by approving a Conditional Use Permit (CUP) as set out in Exhibit A, attached hereto and made a part of this ordinance for all purposes.

PART 2: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PART 3: That the Planning Director be, and is hereby authorized and directed to change the official Zoning Map of the City of Abilene to correctly reflect the amendments thereto.

PASSED ON FIRST READING the 23rd day of June, 2022.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 21st day of May, 2022, the same being more than fifteen (15) days prior to a public hearing held at the Abilene City Hall at 555 Walnut St. in Abilene, Texas, at 8:30 a.m. on the 14th day of July, 2022, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FINAL READING THIS 14th day of July, 2022.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

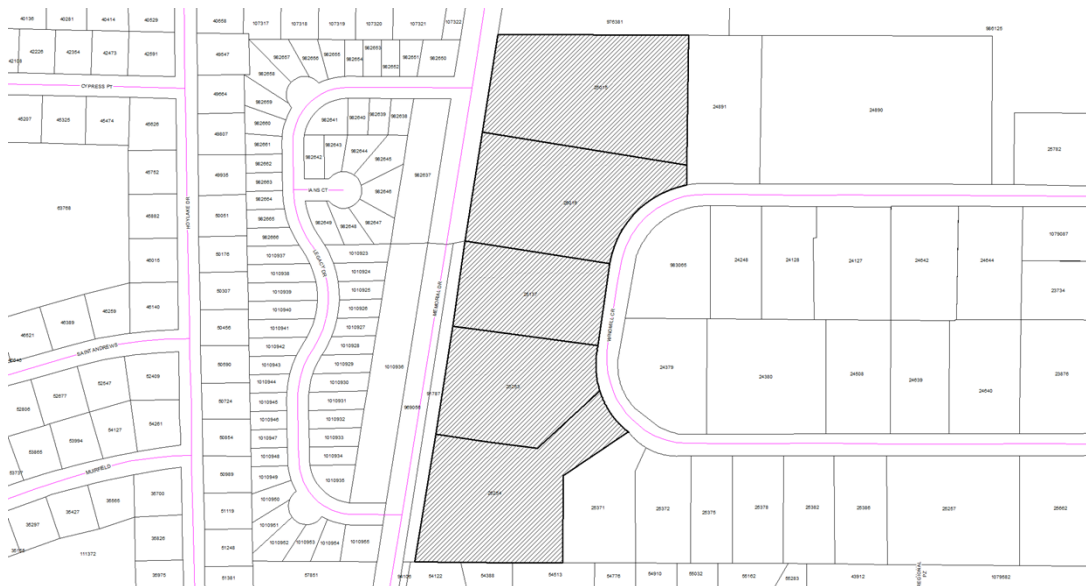
ORDINANCE NO. _____

EXHIBIT A

Conditional Use Permit (CUP) to allow Multi-Family Residential on the following described property in a General Retail (GR) zoning district:

Lots 304, 305, 107, 108, and 109 of Block B within the Windmill Acres subdivision.

- **Conditions:** The proposed Multiple- Family dwellings that are adjacent to Memorial Drive and the dwellings that are adjacent to the north property line shall have a height restriction of two (2) stories, and a type “A” land use buffer shall be required along the north property line. In addition, a seven (7’) foot masonry wall shall be required along memorial drive.



END-

ZONING CASE CUP-2022-04

STAFF REPORT



Scheduled Hearings

Planning & Zoning Commission: June 7, 2022

City Council 1st Reading: June 23, 2022

City Council 2nd Reading: July 14, 2022

Applicant

Owner: Windmill Circle Apartments, LLC

Agent: Enprotec Hibbs and Todd, LLC

Request

Add a Conditional Use Permit (CUP) to allow Multiple-Family (MF) dwellings on approximately 14.95 acres of property zoned General Retail (GR).

Location

5601 Memorial Drive (Lots 107,108,109, 304 & 305, Block B, Windmill Acres Subdivision)

Background

This zone change request incorporates five (5) total lots of the Windmill Acres Subdivision; originally platted in 1980 (3174-0). Lots 107, 108, and 109 were re-platted in 1981 (RP-4481). Lots 304 and 305 were re-platted in 2011(MRP-4611). These subject properties were rezoned from a Planned Development District (PD-34) to General Retail (GR) District in 2012 (Ordinance No. 61-2012).

According to information provided within the application, the owner intends to establish an apartment complex within the subject properties. Prior to 2017, Multiple-Family Dwellings were permitted in a GR district. In 2017, the Land Development Code (LDC) was altered to permit Multiple-Family dwellings with specific requirements in GR districts with the approval of a Conditional Use Permit (CUP) (Ordinance No. 35-2017). The language within the LDC regarding these specific requirements was altered again in 2020 (Ordinance No. 54-2020). The specific requirements are that *multiple-family dwellings shall be subject to limitations on overall residential density, and building setback, the same as if such dwellings were located in a Residential Multiple-Family (MF) District.*

Zoning and Existing Land Use

Current zoning and existing land use of properties adjacent to and in the subject property's immediate area are illustrated on the map included in this report. As indicated on the map, adjacent zoning consists of PD-33 District (Abilene Senior Living) to the north, a mixture of PD-34 and Light Industrial (LI) District to the east, PD-32 to the south, and Patio Home (PH) District to the West (Legacy Village Subdivision Section 1 & 2).

Criteria Assessment

Staff has reviewed the request based upon the factors established in Section 1.4.3.5, Criteria for Approval, of the Land Development Code. These factors are identified and addressed below:

1. The proposed use at the specified location is consistent with the policies embodied in the adopted Comprehensive Plan.

The Future Land Use and Development Plan Map identifies this area as low-density residential. However, a special activities center is located in close proximity to the south which includes one (1) of two (2) Abilene Hospitals. The Comprehensive Plan suggests that higher density housing should support activity centers and transition the density to the surrounding residential area (Strategy 12; Page 20). The proposed Conditional Use Permit to permit multiple-family dwellings within this district could serve as an effective and appropriate use to supplement the economic development of the special activities center.

It is the opinion of the staff that the proposed zoning map amendment will serve to implement the goals, objectives, and policies of the Comprehensive Plan as well as the Future Land Use and Development Plan Map.

2. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations

No, General Retail (GR) Districts are intended to accommodate a wide range of retail trade, services and activities that are needed to serve the community. However, the purpose of a Conditional Use Permit is to allow the establishment of uses of which may be suitable only in certain location in a zoning district or only when subject to standards and conditions that assure compatibility with adjoining uses.

It is the opinion of staff that the inclusion of purpose and intent of the applicable zoning district regulations to permit multiple family dwellings within a GR district with the approval of a conditional use permit accomplishes this criterion for approval.

3. The proposed use is compatible with and preserves the character and integrity of adjacent developments and neighborhoods, and includes improvements either on-site or within the public rights-of-way to mitigate development-related adverse impacts, such as traffic, noise, odors, visual nuisances, drainage or other similar adverse effects to adjacent development and neighborhoods.

It is the opinion of the staff that the proposed use is appropriate in the immediate area of the land to be reclassified as there are multiple-family dwellings immediately to the north and the proposed use can provide a suitable zoning district buffer from the more intensive districts to the east from the low intensity residential district to the west along Memorial Drive.

It is the opinion of staff that the proposed use of this site will not create adverse impacts regarding traffic, noise or odors.

4. The proposed use does not generate pedestrian and vehicular traffic which will be hazardous or conflict with the existing and anticipated traffic in the neighborhood.

Yes, the proposed use will not generate pedestrian and vehicular traffic that will be hazardous or conflict with existing and anticipated traffic. Memorial Drive is a minor arterial that is designed to carry heavy traffic. Traffic impacts will be mitigated as the infrastructure is already in place.

- 5. The proposed use incorporates roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development-generated traffic on neighborhood streets.**

Currently, no roadway adjustments, traffic control devices or mechanisms are required. However, the proposed use will incorporate access restrictions (driveway spacing standards) to control traffic flow or divert traffic as may be needed to reduce or eliminate development-generated traffic on neighborhood streets. The subject properties currently have access to existing utilities and public amenities adequate for the proposed uses. This request presents no apparent conflicts with existing or proposed plans for community facilities and related infrastructure.

- 6. The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed conditional use on adjacent properties.**

A Land-use buffer is not required for this site; however, the proposed site plan illustrates a 14-foot landscape berm that extends along the western property line adjacent to memorial drive. It is the opinion of staff that this landscape berm will mitigate adverse effects of the development from the lower intensity residential-district to the west.

- 7. The proposed use meets the standards for the zoning district, or to the extent variations from such standards have been requested, that such variations are necessary to render the use compatible with adjoining development and the neighborhood.**

Yes, the variations from the standards for the zoning district are necessary to render the use compatible with adjoint development and the neighborhood.

Staff Recommendation

- Approval with conditions:
 - The proposed Multiple- Family dwellings that are adjacent to Memorial Drive and the dwellings that are adjacent to the north property line shall have a height restriction of two (2) stories. Type A buffer installed along the northern property line. Furthermore the only allowed public entrance shall be on windmill circle. The entrance on Memorial Drive shall only be used for emergency access purposes.

Notification

Pursuant to Section 1.2.2.2 of the Land Development Code, staff mailed personal notices on May 23rd, 2022 (via certified mail) to the applicant and other property owners within a 200-foot radius of the subject property. These property owners and associated parcel identification numbers are identified in Table 1.

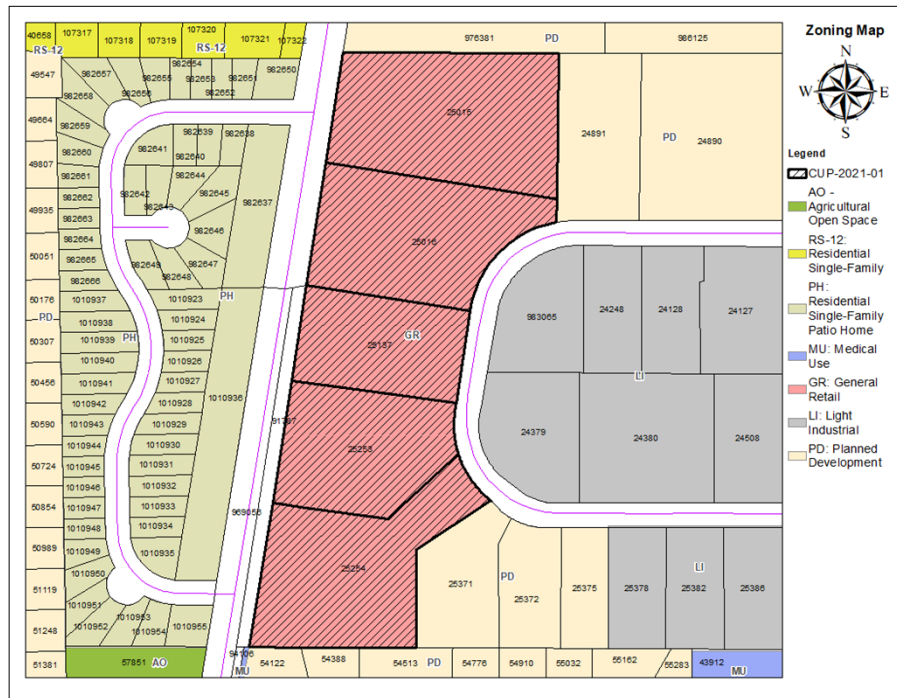
Owner	Property ID	Situs	Response
ABILENE CHARGER PROPERTIES LP	976381	2225 COVENANT DR	
ANDERSON JEFFREY & ANGIE	1010934	5901 LEGACY DR	O
BARNER MATTHEW C	1010935	5933 LEGACY DR	O
BEIRO HENRY & REBECCA	1010930	5825 LEGACY DR	
BIXBY BROOKE	1010924	5733 LEGACY DR	
BRINGHURST CAROL	1010926	5749 LEGACY DR	O
BROOKS KEVIN CONRAD &	1010929	5817 LEGACY DR	
CIC INVESTMENTS INC	57851	2342 ANTILLEY RD	
CITY OF ABILENE	91787		
CITY OF ABILENE	94106		
CITY OF ABILENE	969056		
DAVIS CHARLES M & COLLEEN M	982647	2309 IANS CT	
FOSTER TIMOTHY	1010927	5801 LEGACY DR	
HENDERSON CHERYL L	982646	2301 IANS CT	
HOMEOWNERS OF LEGACY VILLAGE	982637	5650 MEMORIAL DR	
HOMEOWNERS OF LEGACY VILLAGE	982650	5566 MEMORIAL DR	
HOMEOWNERS OF LEGACY VILLAGE	1010936		
HOMEOWNERS OF LEGACY VILLAGE	1010955	5966 LEGACY DR	
LATOUR VINCENT & DAWN	54388	13 HOSPITAL DR	
M2B ABILENE LLC	24890	18 WINDMILL CR	
NORTHCOTT JERRY L & JANET L	1010925	5741 LEGACY DR	O
PAIGE MARY ANN	982638	5609 LEGACY DR	
PARISH TARRANCE & KIMBERLY D	1010933	5849 LEGACY DR	
RAMSEY CYNTHIA	982651	5602 LEGACY DR	
RICH COLDEN S & DANLEE N	107321	2301 INNISBROOK DR	
ROBBINS WILLIAM LYNN &	1010928	5809 LEGACY DR	O
SAMS REAL ESTATE BUSINESS TR	986125	5610 S CLACK ST	
SAMS REAL ESTATE BUSINESS TR	986125	A B S CLACK ST	
SAMS REAL ESTATE BUSINESS TR	986125	5550 S CLACK ST	
SELBY VIRGINIA	25371	38 WINDMILL CR	
SELBY VIRGINIA	25372	40 WINDMILL CR	
SELBY VIRGINIA	25375	42 WINDMILL CR	
SHERROD PAUL BLAKE JR &	24891	24 WINDMILL CR	
SIZEMORE DUSTIN & APRIL	982645	2302 IANS CT	
SMITH KEVIN A & CONNIE F	24248	21 WINDMILL CR	
SMITH KEVIN A & CONNIE F	983065	23 WINDMILL CR	
SMITH NADENE	1010932	5841 LEGACY DR	
TSCHAAR MIKE HEATING &	24379	25 WINDMILL CR	O
VILLAGES OF ABILENE MEADOWS LP	107322	5550 MEMORIAL DR	
VILLAGES OF ABILENE MEADOWS LP	107353	5502 MEMORIAL DR	
WEBB CYNTHIA L	1010931	5833 LEGACY DR	O
WINDMILL CIRCLE APARTMENTS LLC	25015	5601 MEMORIAL DR	
WINDMILL CIRCLE APARTMENTS LLC	25016	28 WINDMILL CR	
WINDMILL CIRCLE APARTMENTS LLC	25137	32 WINDMILL CR	
WINDMILL CIRCLE APARTMENTS LLC	25253	34 WINDMILL CR	
WINDMILL CIRCLE APARTMENTS LLC	25254	36 WINDMILL CR	
WOLVERTON MICHAEL KENT & CHERYL L	1010923	5725 LEGACY DR	
Y2Z LLC	54513	14 HOSPITAL DR	
Y2Z LLC	54776	16 HOSPITAL DR	
Y2Z LLC	54910	17 HOSPITAL DR	
ZACHRY H C STUDIO/GALLERY INC	54122	11 HOSPITAL DR	
ZACHRY H C STUDIO/GALLERY INC	54122	12 HOSPITAL DR	
ZACHRY H C STUDIO/GALLERY INC	54122	6001 MEMORIAL DR	
ZEIGLER JAY ROBERT &	1010954	5950 LEGACY DR	

Prop ID			
Owner	Property ID	Situs	Response
SMITH KEVIN A & CONNIE F	24248	21 WINDMILL CR	
TSCHAAR MIKE HEATING &	24379	25 WINDMILL CR	○
M2B ABILENE LLC	24890	18 WINDMILL CR	
SHERROD PAUL BLAKE JR &	24891	24 WINDMILL CR	
WINDMILL CIRCLE APARTMENTS LLC	25015	5601 MEMORIAL DR	
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SELBY VIRGINIA	25372	40 WINDMILL CR	
SELBY VIRGINIA	25375	42 WINDMILL CR	
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ZACHRY H C STUDIO/GALLERY INC	54122	12 HOSPITAL DR	
ZACHRY H C STUDIO/GALLERY INC	54122	6001 MEMORIAL DR	
LATOUR VINCENT & DAWN	54388	13 HOSPITAL DR	
Y2Z LLC	54513	14 HOSPITAL DR	
Y2Z LLC	54776	16 HOSPITAL DR	
Y2Z LLC	54910	17 HOSPITAL DR	
CIC INVESTMENTS INC	57851	2342 ANTILLEY RD	
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CITY OF ABILENE	94106		
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BRINGHURST CAROL	1010926	5749 LEGACY DR	○
FOSTER TIMOTHY	1010927	5801 LEGACY DR	
ROBBINS WILLIAM LYNN &	1010928	5809 LEGACY DR	○
BROOKS KEVIN CONRAD &	1010929	5817 LEGACY DR	
BEIRO HENRY & REBECCA	1010930	5825 LEGACY DR	
WEBB CYNTHIA L	1010931	5833 LEGACY DR	○
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ANDERSON JEFFREY & ANGIE	1010934	5901 LEGACY DR	○
BARNER MATTHEW C	1010935	5933 LEGACY DR	○
HOMEWONERS OF LEGACY VILLAGE	1010936		
ZEIGLER JAY ROBERT &	1010954	5950 LEGACY DR	
HOMEWONERS OF LEGACY VILLAGE	1010955	5966 LEGACY DR	

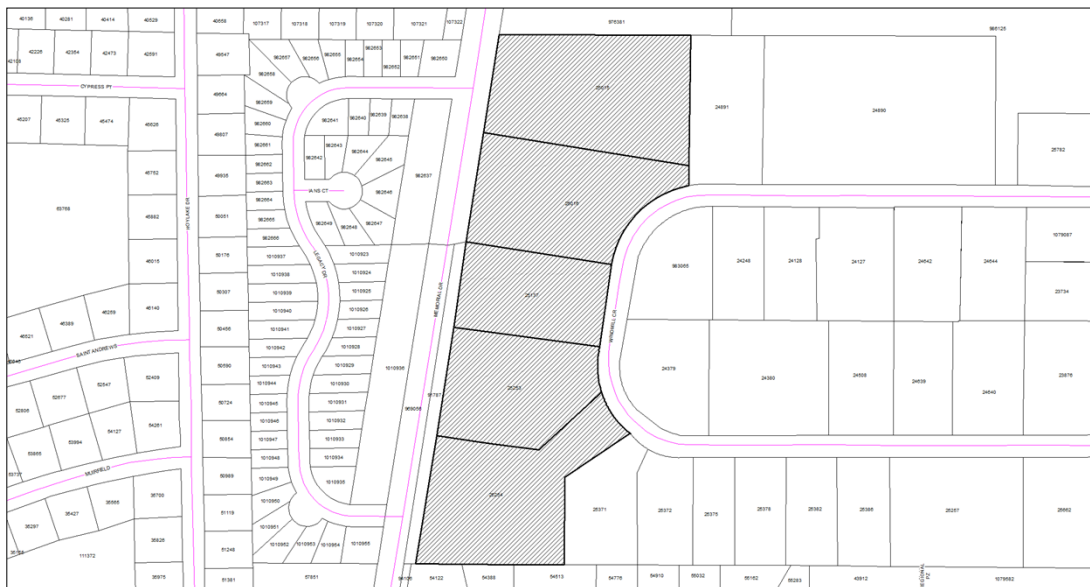
Attachments
Proposed Site Plan with Conditions Exhibit



ZONING MAP



LOCATION MAP





Farr, Melissa <melissa.farr@abilenetx.gov>

[Planning] Apt complex on memorial drive

1 message

'Samm' via Planning Services <planning@abilenetx.gov>

Mon, Apr 25, 2022 at 7:16 PM

Reply-To: Samm <sammclark515@yahoo.com>

To: planning@abilenetx.gov

To whom it may concern,

I heard about the apartment complex on my neighborhood app from others in our neighborhood near the potential development. Based on the comments I know there are going to be people there to strongly oppose it.

I just want to take a minute to tell you I am for it. These "not in my neighborhood" movements stifle progress and growth. Our city is growing and there needs to be more apartment options. The spot is ideal since the land is vacant, it's close to Sam's, the highway, medical services and restaurants.

It saddens me that some people will look down on a brand new apartment complex and judge this as not good enough for their neighborhood. People should have options in different school districts. Even people who aren't in a position to buy a house. Especially in the current housing market.

I hope you move forward with the progress and growth that will come with this development.

Warmest Regards,
Samantha clark

Sent from my iPhone

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CITY OF ABILENE

PLANNING & DEVELOPMENT SERVICES

CIC INVESTMENTS INC
1514 S TREADAWAY BLVD
ABILENE, TX 79602-4927

NOTICE OF PUBLIC HEARING

RE: Conditional Use Permit /Application Number CUP-2022-04

04/20/2022

The Planning and Zoning Commission will hold a public hearing on **May 3, 2022 at 1:30 PM**, in an auditorium at the South Branch of the Abilene Public Library located in Suite 1246 at the Mall of Abilene, 4310 Buffalo Gap Road in Abilene, Texas, to recommend approval or denial to City Council on a request from Windmill Circle Apartments LLC (Represented by Enprotec/Hibbs & Todd, Engineering Consultants) for Approval of a Conditional Use Permit Allowing Multi-Family Residential Buildings on Approximately 15 Acres of Now-Vacant Land in a General Retail (GR) District at 28 thru 36 Windmill Circle and at 5601 Memorial Drive in South Abilene. Legal Description Being Lots 304, 305, 107, 108 and 109 in Block B of Windmill Acres, Abilene, Taylor County, Texas.

This hearing is open to any interested person. Opinions, objections and/or comments relative to this matter may be expressed in writing or in person at the hearing. At the bottom of this letter is a form that you may cut off, fill out, and mail. Comments are also accepted by email as indicated below. All written responses must be signed.

The attached map shows the area of this request. Only the area highlighted by striped lines shown on that map is being considered for a change of zoning. The solid boundary line surrounding this subject area is only a notification area. If approved by the Planning and Zoning Commission, or if denied and promptly appealed to Abilene's City Council, this case will be heard by City Council for 2nd and Final Reading with a public hearing on **June 9, 2022 at 8:30 AM** in Council Chambers on the second floor of City Hall, 555 Walnut Street.

If you have any questions, please contact Adam Holland at telephone 325-676-6230 or by email address planning@abilenetx.gov

For the PLANNING & ZONING COMMISSION
Please call (325) 676-6237 if you have any questions about this notice.

CASE #: CUP-2022-04

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: CIC INVESTMENTS INC

Parcel I.D.: 57851

Address: 2342 ANTILLEY RD

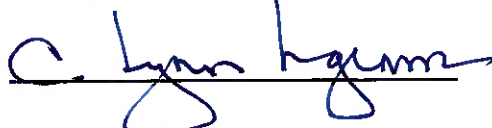
Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☒

I am opposed ☐

Additional Comments:

Signature: 

MAY 4 AM 11:02

555 WALNUT STREET • P.O. BOX 60 • ABILENE, TEXAS 79604-0060

We work together to build and maintain a community of the highest quality for present and future generations.



Farr, Melissa <melissa.farr@abilenetx.gov>

[Planning] Legacy Village - Rezoning Request across Memorial Rd

1 message

Ed Patton <ed@edpattonoil.com>

Fri, Apr 29, 2022 at 2:19 PM

To: "anthony.williams@abilenetx.gov" <anthony.williams@abilenetx.gov>

Cc: "planning@abilenetx.gov" <planning@abilenetx.gov>

Mayor Anthony Williams

City of Abilene

Dear Mayor Williams:

RE: Zoning at 5601 Memorial Dr,

[28 Windmill Cir](#), 32 Windmill Cir,[34 Windmill Cir](#), & 36 Windmill Cir

I live at [5718 Legacy Drive](#) (access is via Memorial Drive). I am writing today to ask that on May 3 you vote to deny the zoning request that would allow apartments to be built on the properties listed above. With the proximity of Sam's, the off ramp of the Highway by Sam's, and Antilley Road (including the new traffic light at the intersection of 83/84 and Antilley Road) there can be a lot of congestion in the area including Memorial Drive. I also suspect that a traffic light will soon need to be added to the intersection of Memorial Drive and Antilley Road.

I will be unable to attend and speak the May 3 Council meeting. Thus, I have instead sent this email. Thank you for your consideration in reading my concern. And thank you for your work on the City Council to make Abilene a better place.

Very truly yours,

Ed Patton

[5718 Legacy Drive](#)[Abilene, TX 79606](#)ed@edpattonoil.com

Cell: 325/669-8515

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To view this discussion on the web visit <https://groups.google.com/a/abilenetx.gov/d/msgid/planning/SN6PR02MB407797D6FA5AED440F5F55FDCFFC9%40SN6PR02MB4077.namprd02.prod.outlook.com>.



Farr, Melissa <melissa.farr@abilenetx.gov>

[Planning] Fwd: Rezoning Case # CUP - 2022-04

1 message

'Carol' via Planning Services <planning@abilenetx.gov>

Tue, Apr 26, 2022 at 10:18 AM

Reply-To: Carol <cbringhurst1971@yahoo.com>

To: travis.carver@abilenetx.gov

Cc: planning@abilenetx.gov

Sent from my iPhone

Begin forwarded message:

From: Carol <cbringhurst1971@yahoo.com>**Date:** April 26, 2022 at 10:13:32 AM CDT**To:** anthony.williams@abilenetx.gov**Cc:** shane.price@abilenetx.gov**Subject:** Rezoning Case # CUP - 2022-04

Dear Mayor, Councilmen, and Councilwomen,

Thank you for your leadership on housing affordability and many other issues of great importance to our community. I'm writing you today to express my concern and strong opposition to the zoning change for the following locations:

5601 Memorial
28 Windmill Cir
32 Windmill Cir
34 Windmill Cir
36 Windmill Cir

Housing affordability, supply, and security are among the nation's top concerns. However, these should not come at the expense of those residing around Memorial Dr. We bought in this area because of safety and security. Fortunately, the commercial buildings in this area create a "sleepy" feeling after a particular time of day because the streets only house those who live in the area. Yet, with this proposed change, our life will be altered drastically.

Concerns with multifamily development include school overcrowding, a surge in crime, increased traffic, and overall degradation of neighborhood appearance. There is also the uniformity of the surrounding areas to consider. Apartment complexes are usually multiple stories, which does not fit the other buildings in the area.

I ask that you deny this request.

Carol Bringhurst
5749 Legacy Dr
Abilene, TX 79606

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April 25, 2022

Dear Mayor, Councilmen and Councilwomen:

We are writing to express our concern and strong opposition to the zoning changes for the following locations:

5601 Memorial
28 Windmill Cir
32 Windmill Cir
34 Windmill Cir
36 Windmill Cir

Housing affordability, supply and security are among the nation's top concerns. However, these should not come at the expense of those residing around Memorial Drive. We bought and built in this area because of safety and security. Fortunately, the commercial buildings in this area create a "sleepy" feeling after a particular time of day because the streets only house those who live in the area. Yet, with this proposed change, our life will be altered drastically.

Concerns with multi-family development include school overcrowding, a surge in crime, increased traffic and overall degradation of our neighborhood appearance. There is also the uniformity of the surrounding areas to consider. Apartment complexes are usually multiple stories, which does not fit the other buildings in the area. Property values are likely to go down in this area if multi-family apartments are built.

We urge you to disapprove and deny the proposed rezoning. After recent meetings and discussions with my neighbors, I know our opinions are shared by many who live in this area of Abilene.

Thank you for your leadership and continued service and support of our communities.

Best regards,



William and Patricia Robbins
5809 Legacy Drive
Abilene, TX 79606



Farr, Melissa <melissa.farr@abilenetx.gov>

[Planning] CUP-2022-04

1 message

'terrye johnson' via Planning Services <planning@abilenetx.gov>

Tue, Apr 26, 2022 at 12:00 PM

Reply-To: terrye johnson <tljohnson3@yahoo.com>

To: "anthony.williams@abilenetx.gov" <anthony.williams@abilenetx.gov>, "shane.price@abilenetx.gov" <shane.price@abilenetx.gov>, "lynn.beard@abilenetx.gov" <lynn.beard@abilenetx.gov>, "donna.albus@abilenetx.gov" <donna.albus@abilenetx.gov>, "weldon.hurt@abilenetx.gov" <weldon.hurt@abilenetx.gov>, "kyle.mcalister@abilenetx.gov" <kyle.mcalister@abilenetx.gov>, "travis.craver@abilenetx.gov" <travis.craver@abilenetx.gov>, Planning Services <planning@abilenetx.gov>

Dear Mayor, City Council Members and Planning Staff,

I am writing to express my strong opposition to allowing a large multi-family residential building to be built at 5601 Memorial Drive.

Please do not allow a structure of this size to be built in this area. A multi-family residential structure is not consistent with the surrounding houses. It is not a fit for this neighborhood.

I am concerned about the effects of the greatly increased amount of traffic on Memorial Drive (and other neighborhood streets), and the safety of this area. In addition, my home is also an investment. Allowing this structure to be built will most likely decrease the value of my property at 5818 Legacy Drive.

Many of my neighbors are retired and decided to live on Legacy Drive due to it's serene, quiet and beautiful qualities. Please do not take this away!

I vigorously urge you to deny this request for a Conditional Use Permit. Please allow this neighborhood to retain the tranquility and safety it enjoys now.

Thank you for your service and support of the Abilene Community.

Sincerely,

Terrye Johnson
[5818 Legacy Drive](#)
 325-428-9519

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Farr, Melissa <melissa.farr@abilenetx.gov>

[Planning] Zoning change on Memorial

2 messages

coweb1 via Planning Services <planning@abilenetx.gov>

Mon, Apr 25, 2022 at 3:49 PM

Reply-To: coweb1@verizon.net

To: "anthony.williams@abilenetx.gov" <anthony.williams@abilenetx.gov>, "shane.price@abilenetx.gov" <shane.price@abilenetx.gov>, "lynn.beard@abilenetx.gov" <lynn.beard@abilenetx.gov>, "donna.albus@abilenetx.gov" <donna.albus@abilenetx.gov>, "weldon.hurt@abilenetx.gov" <weldon.hurt@abilenetx.gov>, "kyle.mcalister@abilenetx.gov" <kyle.mcalister@abilenetx.gov>, "travis.craver@abilenetx.gov" <travis.craver@abilenetx.gov>, "planning@abilenetx.gov" <planning@abilenetx.gov>

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Concerns with multifamily development include school overcrowding, a surge in crime, increased traffic, and overall degradation of neighborhood appearance. There is also the uniformity of the surrounding areas to consider. Apartment complexes are usually multiple stories, which does not fit the other buildings in the area.

I ask that you deny this request.

Thank you for your time,

Cynthia Webb
5833 Legacy Dr.

--

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Farr, Melissa <melissa.farr@abilenetx.gov>

Mon, Apr 25, 2022 at 3:55 PM

To: coweb1@verizon.net, Planning Services <planning@abilenetx.gov>

Thank you for your response. The letter has been received and noted for **CUP-2022-04**.



Melissa E. Farr, Executive Assistant

555 Walnut Street, Suite 110
Abilene, Texas 79601-5254

Post Office Box 60
Abilene, Texas 79604-0060

(325) 676-6237 (Office)

<https://www.abilenetx.gov/424/Planning-Development-Services>

[Quoted text hidden]



Farr, Melissa <melissa.farr@abilenetx.gov>

[Planning] Windmill Apartment rezoning request

1 message

'Carl Castleberry' via Planning Services <planning@abilenetx.gov>

Mon, Apr 25, 2022 at 4:29 PM

Reply-To: Carl Castleberry <castlebubba@yahoo.com>

To: "planning@abilenetx.gov" <planning@abilenetx.gov>

I understand that there is a rezoning request for a 15 acre apartment complex on Memorial Dr directly across from my subdivision. As a homeowner in Legacy Village, I strongly oppose this rezoning request.

I grew up in Abilene and moved around the US during my career. After recently retiring from Phillips 66 in Oklahoma, we decided to move back home to Abilene. We took great care in finding a place to live. Our neighborhood butts up next to Fairway Oaks and is filled with many other retirees and also some working families. It is quiet, with most of those working doing so during the day, so people aren't coming and going and making noise all night. I knew that land across Memorial was commercial property, so it would be developed some day, but I was thinking offices or maybe even a restaurant or retail. If I knew apartments were going in across the street, we certainly would not have chosen to live here and to pay what we did based on the prime location.

The severity of my first major concern depends on what kind of apartments these are, and what is the density, etc.. Regardless, I can see the desirability of my neighborhood dropping like a rock. Even worse, the prospect of neighbors leaving en masse and property values dropping like a rock too.

Traffic is my other major concern. The increase in traffic from dense apartment housing sounds like a nightmare. Not only that, the nature of apartment living will change the traffic patterns as people will be coming and going all night.

My last concern is crime could increase. I know people have to have a place to live and most apartment dwellers are law abiding citizens, but I do worry about increased crime.

Please DO NOT approve this rezoning request. Thanks for all you do for our fine city. I plan to be at the meeting on May 4th.

Carl Castleberry
5834 Legacy Dr
806-310-7135

Sent from Yahoo Mail on Android

--

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Farr, Melissa <melissa.farr@abilenetx.gov>

[Planning] Zoning change opposition

1 message

Nadene Smith <jnsmith@suddenlink.net>

Sat, Apr 30, 2022 at 8:50 AM

To: anthony.williams@abilenetx.gov, shane.price@abilenetx.gov, lynn.beard@abilenetx.gov, donna.albus@abilenetx.gov, weldon.hurt@abilenetx.gov, kyle.mcalister@abilenetx.gov, travis.craver@abilenetx.gov, planning@abilenetx.gov

Dear Mayor, Council members, and City staff:

I'm grateful to live in Abilene, TX. Thank you for your leadership in making our city one of the top in the nation.

Please accept my email, addressing the upcoming zoning change for the following locations:

5601 Memorial

28 Windmill Cir

32 Windmill Cir

34 Windmill Cir

36 Windmill Cir

It's my understanding these areas want to be rezoned for apartments that would be 3 stories high. There are three specific concerns at this early date that come to mind:

1. Increased traffic: Currently it is difficult to go in/out of Memorial Drive on Antilley safely and in a timely fashion. Traffic overcrowding is a huge safety issue!
2. The Legacy Drive neighborhood, directly across the street from the proposed apartment complex, is a \$300,000 and up area. A 3-story apartment complex would decrease the value of this housing development significantly.
3. With apartment/rental living comes an un-invested, transient population. I specifically bought in this area for safety and security and feel that would be jeopardized.

I humbly ask that you consider denying this zoning request.

I'm prioritizing my work schedule to be present at the public hearing.

Sincerely,

Nadene Smith

325.864.1261

--

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For the PLANNING & ZONING COMMISSION

Please call (325) 676-6237 if you have any questions about this notice.

CASE #: CUP-2022-04

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: SMITH KEVIN A & CONNIE F

Parcel I.D.: 24248

Address: 21 WINDMILL CR

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☐

I am opposed ☒

Additional Comments:

Signature: 

555 WALNUT STREET • P.O. BOX 60 • ABILENE, TEXAS 79604-0060

We work together to build and maintain a community of the highest quality for present and future generations.

For the PLANNING & ZONING COMMISSION

Please call (325) 676-6237 if you have any questions about this notice.

CASE #: CUP-2022-04

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: SMITH KEVIN A & CONNIE F

Parcel I.D.: 983065

Address: 23 WINDMILL CR

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☐

I am opposed ☒

Additional Comments:

Signature: 

555 WALNUT STREET • P.O. BOX 60 • ABILENE, TEXAS 79604-0060

We work together to build and maintain a community of the highest quality for present and future generations.

For the PLANNING & ZONING COMMISSION
Please call (325) 676-6237 if you have any questions about this notice.

CASE #: CUP-2022-04

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: WOLVERTON MICHAEL KENT & CHERYL L
Parcel I.D.: 1010923
Address: 5725 LEGACY DR

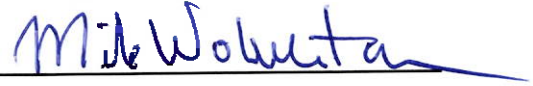
Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☐
Additional Comments:

I am opposed ☒

Signature:



MAY 2 AM 11:09

555 WALNUT STREET • P.O. BOX 60 • ABILENE, TEXAS 79604-0060

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PLANNING & DEVELOPMENT SERVICES

BEIRO HENRY & REBECCA
5825 LEGACY DR
ABILENE, TX 79606-4393

NOTICE OF PUBLIC HEARING

RE: Conditional Use Permit Application Number CUP-2022-04

04/20/2022

The Planning and Zoning Commission will hold a public hearing on **May 3, 2022 at 1:30 PM**, in an auditorium at the South Branch of the Abilene Public Library located in Suite 1246 at the Mall of Abilene, 4310 Buffalo Gap Road in Abilene, Texas, to recommend approval or denial to City Council on a request from Windmill Circle Apartments LLC (Represented by Enprotec/Hibbs & Todd, Engineering Consultants) for Approval of a Conditional Use Permit Allowing Multi-Family Residential Buildings on Approximately 15 Acres of Now-Vacant Land in a General Retail (GR) District at 28 thru 36 Windmill Circle and at 5601 Memorial Drive in South Abilene. Legal Description Being Lots 304, 305, 107, 108 and 109 in Block B of Windmill Acres, Abilene, Taylor County, Texas.

This hearing is open to any interested person. Opinions, objections and/or comments relative to this matter may be expressed in writing or in person at the hearing. At the bottom of this letter is a form that you may cut off, fill out, and mail. Comments are also accepted by email as indicated below. All written responses must be signed.

The attached map shows the area of this request. Only the area highlighted by striped lines shown on that map is being considered for a change of zoning. The solid boundary line surrounding this subject area is only a notification area. If approved by the Planning and Zoning Commission, or if denied and promptly appealed to Abilene's City Council, this case will be heard by City Council for 2nd and Final Reading with a public hearing on **June 9, 2022 at 8:30 AM** in Council Chambers on the second floor of City Hall, 555 Walnut Street.

If you have any questions, please contact Adam Holland at telephone 325-676-6230 or by email address planning@abilenetx.gov

For the PLANNING & ZONING COMMISSION
Please call (325) 676-6237 if you have any questions about this notice.

CASE #: CUP-2022-04

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: BEIRO HENRY & REBECCA

Parcel I.D.: 1010930

Address: 5825 LEGACY DR

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☐
Additional Comments:

I am opposed ☒

Signature:

Henry A. Beiro

see attached email

MAY 2 AM 11:09

555 WALNUT STREET • P.O. BOX 60 • ABILENE, TEXAS 79604-0060

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CASE #: CUP-2022-04

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: PARISH TARRANCE & KIMBERLY D
Parcel I.D.: 1010933
Address: 5849 LEGACY DR

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☐
Additional Comments:

I am opposed ☒

Signature: _____

APR 29 AM 11:53

555 WALNUT STREET • P.O. BOX 60 • ABILENE, TEXAS 79604-0060

We work together to build and maintain a community of the highest quality for present and future generations.

For the PLANNING & ZONING COMMISSION

Please call (325) 676-6237 if you have any questions about this notice.

CASE #: CUP-2022-04

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: ANDERSON JEFFREY & ANGIE

Parcel I.D.: 1010934

Address: 5901 LEGACY DR

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☐

I am opposed ☒

Additional Comments:

Signature: Angie Anderson

APR 29 AM 11:46

555 WALNUT STREET • P.O. BOX 60 • ABILENE, TEXAS 79604-0060

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Farr, Melissa <melissa.farr@abilenetx.gov>

[Planning] Request to Deny Conditional use Permit Application # 2022-04

1 message

Abby Speed <abbys@stovallrealtors.com>

Sun, May 1, 2022 at 6:52 PM

Cc: Jay Eagle Zeigler <jay.zeigler.1@us.af.mil>, jay.r.zeigler@gmail.com, "Speed, Abby J." <abby.speed@gmail.com>, Ed Farnsworth <e.farnsworth68@gmail.com>, Henry Beiro <hhbeiro@gmail.com>, Mark Spurlock <bikeabilene@yahoo.com>, Stacey Yandell <yandellhome@att.net>

Bcc: planning@abilenetx.gov

Dear Councilmember,

I'm writing to you today to express my concern and strong opposition to the zoning change for the locations on Memorial Dr and Windmill Cir.

Since 2006 I've been a real estate agent and I know firsthand that allowing the build of apartment complexes will negatively impact housing sales and prices in Legacy Village and surrounding areas. For example, I currently have a listing in Wylie Legacies (across from Wylie High School). Unfortunately, this house backs up to the newly built apartments. As a result, I received a lot of negative feedback from potential buyers that they would not buy the house because of those apartments alone (this feedback is in writing, and I can provide it upon request).

Can you imagine in a time when we have an unprecedented housing shortage that these desperate buyers would decline a home because of this reason alone? Fortunately, the housing shortage will ease up; however, unfortunately, it will only make it harder to sell our houses if you approve the conditional use permit.

I ask that you deny this request.

Housing affordability, supply, and security are among the nation's top concerns. However, these should not come at the expense of those residing around Memorial Dr. We bought in this area because of safety and security. Fortunately, the commercial buildings in this area create a "sleepy" feeling after a particular time of day because the streets only house those who live in the area. Yet, with this proposed change, our life will be altered drastically.

Again, I ask that you deny this request.

Concerns with multifamily development include school overcrowding, a surge in crime, increased traffic, and overall degradation of neighborhood appearance. There is also the uniformity of the surrounding areas to consider. Apartment complexes are usually multiple stories, which does not fit the other buildings in the area.

Lastly, I ask that you deny this request.

V/r,

Abby Speed

--

Texas law requires all agents to provide Information about Brokerage Services (IABS) - [Please Click Here](#)

Thank you,

Abby

Abby Speed, REALTOR®, GRI

Cell: 325-261-0778
www.soldwithspeed.com

Berkshire Hathaway Home Services - Stovall, REALTORS®

3382 S 27th St.
Abilene, TX 79605
www.stovallrealtors.com

"Buy with Speed!"

--

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Farr, Melissa <melissa.farr@abilenetx.gov>

[Planning] Re: 15-acre "affordable housing" apartment complex on Memorial Drive at Windmill Acres

1 message

'Joe Alexander' via Planning Services <planning@abilenetx.gov>

Tue, Apr 26, 2022 at 4:51 PM

Reply-To: Joe Alexander <joealexander@icloud.com>

To: planning@abilenetx.gov

Cc: anthony.williams@abilenetx.gov, shane.price@abilenetx.gov, lynn.beard@abilenetx.gov, donna.albus@abilenetx.gov, weldon.hurt@abilenetx.gov, kyle.mcalister@abilenetx.gov, travis.craver@abilenetx.gov

Ladies & Gentlemen:

I wish I could attend this hearing in person, but my time does not permit attending during my patient hours.

I am a homeowner is Waterside at Wyndham. I am concerned about the potential development of the 15 acres on Windmill Circle for Affordable housing (or for that matter, any housing project.). The current zoning of this location does not permit any residential development for a good reason. It is commercial property and should stay that way. Current ingress and egress to Windmill Circle is via Clack St. The western side of the proposed development fronts Memorial Drive. If access to Memorial Drive is included in the project (which only makes sense), this will put the majority of the traffic taking a winding route through residential street that were not engineered for the amount of current traffic, much less any additional traffic. Currently, this route is used in excess of original planning due to the construction of Sam's Club. Lynbrook Drive is the only street that allows connection to Buffalo Gap Road and points north. Foot traffic and bicycle traffic is already at danger with current traffic. The streets are too narrow to allow street parking (which is often present during the day) and for 2 cars to be able to pass.

I urge the Council to consider current residents safety before making any decisions on the development. At the very least, if approval is considered, divert all access onto Clack Street and not Memorial Drive. The land on Windmill Circle should, in my opinion, remain industrial/commercial and not be changed to any type of residential development.

Thank you for your consideration.

Joe Alexander, MD
 5258 Wyndham Ct.
 Abilene, TX 79606
joealexander@icloud.com
 325-668-7474

--

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Farr, Melissa <melissa.farr@abilenetx.gov>

[Planning] Fwd: Rezoning Case # CUP - 2022-04

1 message

'Carol' via Planning Services <planning@abilenetx.gov>

Tue, Apr 26, 2022 at 10:18 AM

Reply-To: Carol <cbringhurst1971@yahoo.com>

To: travis.carver@abilenetx.gov

Cc: planning@abilenetx.gov

Sent from my iPhone

Begin forwarded message:

From: Carol <cbringhurst1971@yahoo.com>**Date:** April 26, 2022 at 10:13:32 AM CDT**To:** anthony.williams@abilenetx.gov**Cc:** shane.price@abilenetx.gov**Subject:** Rezoning Case # CUP - 2022-04

Dear Mayor, Councilmen, and Councilwomen,

Thank you for your leadership on housing affordability and many other issues of great importance to our community. I'm writing you today to express my concern and strong opposition to the zoning change for the following locations:

5601 Memorial
28 Windmill Cir
32 Windmill Cir
34 Windmill Cir
36 Windmill Cir

Housing affordability, supply, and security are among the nation's top concerns. However, these should not come at the expense of those residing around Memorial Dr. We bought in this area because of safety and security. Fortunately, the commercial buildings in this area create a "sleepy" feeling after a particular time of day because the streets only house those who live in the area. Yet, with this proposed change, our life will be altered drastically.

Concerns with multifamily development include school overcrowding, a surge in crime, increased traffic, and overall degradation of neighborhood appearance. There is also the uniformity of the surrounding areas to consider. Apartment complexes are usually multiple stories, which does not fit the other buildings in the area.

I ask that you deny this request.

Carol Bringhurst
5749 Legacy Dr
Abilene, TX 79606

--

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April 25, 2022

Dear Mayor, Councilmen and Councilwomen:

We are writing to express our concern and strong opposition to the zoning changes for the following locations:

5601 Memorial
28 Windmill Cir
32 Windmill Cir
34 Windmill Cir
36 Windmill Cir

Housing affordability, supply and security are among the nation's top concerns. However, these should not come at the expense of those residing around Memorial Drive. We bought and built in this area because of safety and security. Fortunately, the commercial buildings in this area create a "sleepy" feeling after a particular time of day because the streets only house those who live in the area. Yet, with this proposed change, our life will be altered drastically.

Concerns with multi-family development include school overcrowding, a surge in crime, increased traffic and overall degradation of our neighborhood appearance. There is also the uniformity of the surrounding areas to consider. Apartment complexes are usually multiple stories, which does not fit the other buildings in the area. Property values are likely to go down in this area if multi-family apartments are built.

We urge you to disapprove and deny the proposed rezoning. After recent meetings and discussions with my neighbors, I know our opinions are shared by many who live in this area of Abilene.

Thank you for your leadership and continued service and support of our communities.

Best regards,



William and Patricia Robbins
5809 Legacy Drive
Abilene, TX 79606



Farr, Melissa <melissa.farr@abilenetx.gov>

[Planning] CUP-2022-04

1 message

'terrye johnson' via Planning Services <planning@abilenetx.gov>

Tue, Apr 26, 2022 at 12:00 PM

Reply-To: terrye johnson <tljohnson3@yahoo.com>

To: "anthony.williams@abilenetx.gov" <anthony.williams@abilenetx.gov>, "shane.price@abilenetx.gov" <shane.price@abilenetx.gov>, "lynn.beard@abilenetx.gov" <lynn.beard@abilenetx.gov>, "donna.albus@abilenetx.gov" <donna.albus@abilenetx.gov>, "weldon.hurt@abilenetx.gov" <weldon.hurt@abilenetx.gov>, "kyle.mcalister@abilenetx.gov" <kyle.mcalister@abilenetx.gov>, "travis.craver@abilenetx.gov" <travis.craver@abilenetx.gov>, Planning Services <planning@abilenetx.gov>

Dear Mayor, City Council Members and Planning Staff,

I am writing to express my strong opposition to allowing a large multi-family residential building to be built at 5601 Memorial Drive.

Please do not allow a structure of this size to be built in this area. A multi-family residential structure is not consistent with the surrounding houses. It is not a fit for this neighborhood.

I am concerned about the effects of the greatly increased amount of traffic on Memorial Drive (and other neighborhood streets), and the safety of this area. In addition, my home is also an investment. Allowing this structure to be built will most likely decrease the value of my property at 5818 Legacy Drive.

Many of my neighbors are retired and decided to live on Legacy Drive due to it's serene, quiet and beautiful qualities. Please do not take this away!

I vigorously urge you to deny this request for a Conditional Use Permit. Please allow this neighborhood to retain the tranquility and safety it enjoys now.

Thank you for your service and support of the Abilene Community.

Sincerely,

Terrye Johnson
[5818 Legacy Drive](#)
 325-428-9519

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Farr, Melissa <melissa.farr@abilenetx.gov>

[Planning] Zoning change on Memorial

2 messages

coweb1 via Planning Services <planning@abilenetx.gov>

Mon, Apr 25, 2022 at 3:49 PM

Reply-To: coweb1@verizon.net

To: "anthony.williams@abilenetx.gov" <anthony.williams@abilenetx.gov>, "shane.price@abilenetx.gov" <shane.price@abilenetx.gov>, "lynn.beard@abilenetx.gov" <lynn.beard@abilenetx.gov>, "donna.albus@abilenetx.gov" <donna.albus@abilenetx.gov>, "weldon.hurt@abilenetx.gov" <weldon.hurt@abilenetx.gov>, "kyle.mcalister@abilenetx.gov" <kyle.mcalister@abilenetx.gov>, "travis.craver@abilenetx.gov" <travis.craver@abilenetx.gov>, "planning@abilenetx.gov" <planning@abilenetx.gov>

Dear Mayor, Councilmen and Councilwomen,

Thank you for your leadership on housing affordability and many other issues of great importance to our community. I'm writing you today to express my concern and strong opposition to the zoning change for the following locations:

5601 Memorial
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32 Windmill Cir
34 Windmill Cir
36 Windmill Cir

Housing affordability, supply, and security are among the nation's top concerns. However, these should not come at the expense of those residing around Memorial Dr. We bought in this area because of safety and security. Fortunately, the commercial buildings in this area create a "sleepy" feeling after a particular time of day because the streets only house those who live in the area. Yet, with this proposed change, our life will be altered drastically.

Concerns with multifamily development include school overcrowding, a surge in crime, increased traffic, and overall degradation of neighborhood appearance. There is also the uniformity of the surrounding areas to consider. Apartment complexes are usually multiple stories, which does not fit the other buildings in the area.

I ask that you deny this request.

Thank you for your time,

Cynthia Webb
5833 Legacy Dr.

--

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Farr, Melissa <melissa.farr@abilenetx.gov>

Mon, Apr 25, 2022 at 3:55 PM

To: coweb1@verizon.net, Planning Services <planning@abilenetx.gov>

Thank you for your response. The letter has been received and noted for **CUP-2022-04**.



Melissa E. Farr, Executive Assistant

555 Walnut Street, Suite 110
Abilene, Texas 79601-5254

Post Office Box 60
Abilene, Texas 79604-0060

(325) 676-6237 (Office)

<https://www.abilenetx.gov/424/Planning-Development-Services>

[Quoted text hidden]



Farr, Melissa <melissa.farr@abilenetx.gov>

[Planning] Windmill Apartment rezoning request

1 message

'Carl Castleberry' via Planning Services <planning@abilenetx.gov>

Mon, Apr 25, 2022 at 4:29 PM

Reply-To: Carl Castleberry <castlebubba@yahoo.com>

To: "planning@abilenetx.gov" <planning@abilenetx.gov>

I understand that there is a rezoning request for a 15 acre apartment complex on Memorial Dr directly across from my subdivision. As a homeowner in Legacy Village, I strongly oppose this rezoning request.

I grew up in Abilene and moved around the US during my career. After recently retiring from Phillips 66 in Oklahoma, we decided to move back home to Abilene. We took great care in finding a place to live. Our neighborhood butts up next to Fairway Oaks and is filled with many other retirees and also some working families. It is quiet, with most of those working doing so during the day, so people aren't coming and going and making noise all night. I knew that land across Memorial was commercial property, so it would be developed some day, but I was thinking offices or maybe even a restaurant or retail. If I knew apartments were going in across the street, we certainly would not have chosen to live here and to pay what we did based on the prime location.

The severity of my first major concern depends on what kind of apartments these are, and what is the density, etc.. Regardless, I can see the desirability of my neighborhood dropping like a rock. Even worse, the prospect of neighbors leaving en masse and property values dropping like a rock too.

Traffic is my other major concern. The increase in traffic from dense apartment housing sounds like a nightmare. Not only that, the nature of apartment living will change the traffic patterns as people will be coming and going all night.

My last concern is crime could increase. I know people have to have a place to live and most apartment dwellers are law abiding citizens, but I do worry about increased crime.

Please DO NOT approve this rezoning request. Thanks for all you do for our fine city. I plan to be at the meeting on May 4th.

Carl Castleberry
5834 Legacy Dr
806-310-7135

Sent from Yahoo Mail on Android

--

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To view this discussion on the web visit <https://groups.google.com/a/abilenetx.gov/d/msgid/planning/1636608107.697221.1650922150287%40mail.yahoo.com>.

CASE #: CUP-2022-04

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: PARISH TARRANCE & KIMBERLY D
Parcel I.D.: 1010933
Address: 5849 LEGACY DR

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☐
Additional Comments:

I am opposed ☒

Signature: _____

APR 29 AM 11:53

555 WALNUT STREET • P.O. BOX 60 • ABILENE, TEXAS 79604-0060

We work together to build and maintain a community of the highest quality for present and future generations.

For the PLANNING & ZONING COMMISSION

Please call (325) 676-6237 if you have any questions about this notice.

CASE #: CUP-2022-04

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: ANDERSON JEFFREY & ANGIE

Parcel I.D.: 1010934

Address: 5901 LEGACY DR

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☐

I am opposed ☒

Additional Comments:

Signature: Angie Anderson

APR 29 AM 11:46

555 WALNUT STREET • P.O. BOX 60 • ABILENE, TEXAS 79604-0060

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CASE #: CUP-2022-04

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Name: BRINGHURST CAROL
Parcel I.D.: 1010926
Address: 5749 LEGACY DR

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☐
Additional Comments:

I am opposed ☒

Signature:



APR 27 AM 10:43

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For the PLANNING & ZONING COMMISSION
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CASE #: CUP-2022-04

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Name: NORTHCOTT JERRY L & JANET L
Parcel I.D.: 1010925
Address: 5741 LEGACY DR

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☐
Additional Comments:

I am opposed ☒

Signature:



APR 27 AM 10:43

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For the PLANNING & ZONING COMMISSION
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CASE #: CUP-2022-04

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: BARNER MATTHEW C
Parcel I.D.: 1010935
Address: 5933 LEGACY DR

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☐
Additional Comments:

I am opposed ☒

Signature: Matthew Barner

APR 27 AM 10:43

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CASE #: CUP-2022-04

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Name: ROBBINS WILLIAM LYNN &
Parcel I.D.: 1010928
Address: 5809 LEGACY DR

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☐
Additional Comments:

I am opposed ☒

Signature: William Robbins
Patricia Ann Robb

APR 27 AM 10:43

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Name: TSCHAAR MIKE HEATING &
Parcel I.D.: 24379
Address: 25 WINDMILL CR

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☐
Additional Comments:

I am opposed ☒

Signature: Mike Tscharr

APR 27 AM 10:43

555 WALNUT STREET • P.O. BOX 60 • ABILENE, TEXAS 79604-0060

We work together to build and maintain a community of the highest quality for present and future generations.



Farr, Melissa <melissa.farr@abilenetx.gov>

[Planning] Fw: Opposition to 15 acre Apartment Complex Across Memorial

3 messages

Jimmy Boulware <jimmy_b84@hotmail.com>

Sun, Apr 24, 2022 at 7:48 PM

To: "anthony.williams@abilenetx.gov" <anthony.williams@abilenetx.gov>, "shane.price@abilenetx.gov" <shane.price@abilenetx.gov>, "lynn.beard@abilenetx.gov" <lynn.beard@abilenetx.gov>, "donna.albus@abilenetx.gov" <donna.albus@abilenetx.gov>, "weldon.hurt@abilenetx.gov" <weldon.hurt@abilenetx.gov>, "kyle.mcalister@abilenetx.gov" <kyle.mcalister@abilenetx.gov>, "travis.craver@abilenetx.gov" <travis.craver@abilenetx.gov>, "planning@abilenetx.gov" <planning@abilenetx.gov>, Yurika Boulware <yurika_mcgill@yahoo.com>

Good Afternoon Abilene City Officials,

I recently moved to Abilene, Texas and purchased a house in Legacy Village.

After being stationed in Alaska for 6.5 years, we were moved to San Antonio. That was one of the worst places I have ever lived, and was even worse trying to raise a family in and provide a safe environment. Once promotion results were released, I was given the option of 4 bases, Dyess being one of them. My family and I immediately picked Dyess for our #1 because I have always heard how much of a hidden gem it is and how highly our friends spoke of it.

Upon arriving, we realized how right they were. We were happy to purchase a house to have our daughters in the famed Wylie School district, and become part of the community. Our family loves how safe and quiet it is, along with the lack of traffic, and actually feel safe going on walks and letting our kids play outside.

With an apartment complex going up behind our place, that would drastically change. I am more than likely on the final assignment of my career, and bought a house as an investment opportunity, the apartments would destroy that.

I am a Combat Wounded Active Duty Service member with a Purple Heart, and don't do the best with crowds, noise, traffic, and the thought of folks watching me.... Well, apartments behind my house would not help that.

We walk our kids to the bus stop each morning and enjoy the walk and how safe it is.... Apartment traffic will destroy that

Each morning I enjoy my drive to work with the lack of traffic, wave at the neighbors walking, and the small town feel... Once again, the apartments will destroy that

I humbly ask that you vote no on the rezoning of the empty lot on Memorial Drive. Please don't let Abilene turn into San Antonio/Austin.

I would hate for our little slice of Heaven be destroyed and ruin what Abilene has been hyped to be.

Thank you for your time and consideration.

Jimmy Boulware

--

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To view this discussion on the web visit <https://groups.google.com/a/abilenetx.gov/d/msgid/planning/SN4PR04MB838292C633CE539500385D4A84F89%40SN4PR04MB8382.namprd04.prod.outlook.com>.

Jimmy boulware <jimmy_b84@hotmail.com>

Sun, Apr 24, 2022 at 8:39 PM

To: "anthony.williams@abilenetx.gov" <anthony.williams@abilenetx.gov>, "shane.price@abilenetx.gov" <shane.price@abilenetx.gov>, "lynn.beard@abilenetx.gov" <lynn.beard@abilenetx.gov>, "donna.albus@abilenetx.gov" <donna.albus@abilenetx.gov>, "weldon.hurt@abilenetx.gov" <weldon.hurt@abilenetx.gov>, "kyle.mcalister@abilenetx.gov" <kyle.mcalister@abilenetx.gov>, "travis.craver@abilenetx.gov" <travis.craver@abilenetx.gov>, "planning@abilenetx.gov" <planning@abilenetx.gov>, Yurika Boulware <yurika_mcgill@yahoo.com>

Unfortunately, I will not be able to attend due to being in Alabama for temporary duty. I ask that you put yourselves in our shoes.... Would you want that behind your house? After purchasing a nice house, would you want a multi-level apartment complex being built by your house in a nice area? Apartments would be an eyesore, nowhere near the same architectural design, and unfortunately brings in undesirable people and activities.

Thank you again for your time and consideration.

Get [Outlook for iOS](#)

From: Jimmy boulware <jimmy_b84@hotmail.com>

Sent: Sunday, April 24, 2022 7:48:34 PM

To: anthony.williams@abilenetx.gov <anthony.williams@abilenetx.gov>; shane.price@abilenetx.gov <shane.price@abilenetx.gov>; lynn.beard@abilenetx.gov <lynn.beard@abilenetx.gov>; donna.albus@abilenetx.gov <donna.albus@abilenetx.gov>; weldon.hurt@abilenetx.gov <weldon.hurt@abilenetx.gov>; kyle.mcalister@abilenetx.gov <kyle.mcalister@abilenetx.gov>; travis.craver@abilenetx.gov <travis.craver@abilenetx.gov>; planning@abilenetx.gov <planning@abilenetx.gov>; Yurika Boulware <yurika_mcgill@yahoo.com>

Subject: Fw: Opposition to 15 acre Apartment Complex Across Memorial

Good Afternoon Abilene City Officials,

I recently moved to Abilene, Texas and purchased a house in Legacy Village.

After being stationed in Alaska for 6.5 years, we were moved to San Antonio. That was one of the worst places I have ever lived, and was even worse trying to raise a family in and provide a safe environment. Once promotion results were released, I was given the option of 4 bases, Dyess being one of them. My family and I immediately picked Dyess for our #1 because I have always heard how much of a hidden gem it is and how highly our friends spoke of it.

Upon arriving, we realized how right they were. We were happy to purchase a house to have our daughters in the famed Wylie School district, and become part of the community. Our family loves how safe and quiet it is, along with the lack of traffic, and actually feel safe going on walks and letting our kids play outside.

With an apartment complex going up behind our place, that would drastically change. I am more than likely on the final assignment of my career, and bought a house as an investment opportunity, the apartments would destroy that.

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We walk our kids to the bus stop each morning and enjoy the walk and how safe it is.... Apartment traffic will destroy that

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I humbly ask that you vote no on the rezoning of the empty lot on Memorial Drive. Please don't let Abilene turn into San Antonio/Austin.

I would hate for our little slice of Heaven be destroyed and ruin what Abilene has been hyped to be.

Thank you for your time and consideration.

Jimmy Boulware

--

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Farr, Melissa <melissa.farr@abilenetx.gov>

Mon, Apr 25, 2022 at 3:59 PM

To: Jimmy boulware <jimmy_b84@hotmail.com>, Planning Services <planning@abilenetx.gov>

Thank you for your response. The letter has been received and noted for **CUP-2022-04**.



Melissa E. Farr, Executive Assistant

555 Walnut Street, Suite 110
Abilene, Texas 79601-5254

Post Office Box 60
Abilene, Texas 79604-0060

(325) 676-6237 (Office)

<https://www.abilenetx.gov/424/Planning-Development-Services>

[Quoted text hidden]



Farr, Melissa <melissa.farr@abilenetx.gov>

[Planning] Fwd: P&Z Case#CUP-2022-04

1 message

Julianna Nickson <juliannanickson@gmail.com>
Bcc: planning@abilenetx.gov

Thu, Apr 28, 2022 at 2:29 PM

Regarding Case#CUP-2022-04

Windmill Acres - Approval of a Conditional Use Permit Allowing Multi-Family Residential Buildings on Approximately 15 Acres of Now-Vacant Land in a General Retail (GR) District

I would like to express that I am adamantly against the development of Apartments on the lots on Windmill.

It should continue to stay General Retail. I am not against an office/medical office. As is it currently zoned is the appropriate use. General Retail is what surrounds the other lots in that area.

This change would only damage the neighborhood.

It would lower the current homeowners property values.

That not only affects the current homeowners, but the tax dollars that the city will receive.

Please vote NO to this proposal.

Thank you,

Julianna Nickson

--

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Farr, Melissa <melissa.farr@abilenetx.gov>

[Planning] a 15 acre apartment complex on Memorial Drive (5650-5660 Memorial Drive)

2 messages

Randy Wilson <rwilson@randywilsonlaw.com>

Mon, Apr 25, 2022 at 8:34 AM

To: kyle.mcalister@abilenetx.gov, donna.albus@abilenetx.gov, anthony.williams@abilenetx.gov, shane.price@abilenetx.gov, lynn.beard@abilenetx.gov, weldon.hurt@abilenetx.gov, travis.craver@abilenetx.gov, planning@abilenetx.gov

As residents of Wyndham Court and Waterside @ Wyndham, we all oppose the project for apartments at the above location.

1

The traffic on Memorial, Lynbrook, is already too heavily traveled, even by vehicles which are supposed to be prohibited from traveling on Lynbrook, Innisbrook Covenant, and Peppermill streets. Memorial has become a "raceway" and backdoor to Sam's Club. This project will only add to the problems facing the residents who already live next to Memorial as well as the residents in the neighborhood who walk their dogs, walk, jog, walk the children in strollers, ride bicycles both adult and children along Memorial and adjacent streets.

With kindest regards, I remain
Very truly yours,
Randy Wilson

rwilson@randywilsonlaw.com

The information contained in this communication is a transmission from the Law Offices of Randy Wilson and Kristin Postell, PLLC and is information protected by the attorney/client and/or attorney/work product privilege. It, along with any attachments hereto, is also covered by the Electronic communications Privacy Act, 18 U.S.C. Sections 2510-2512. This e-mail is intended only for the personal and confidential use of the recipient(s) named in the communication, and the privileges are not waived by virtue of this having been sent by electronic mail. Recipient named herein has indicated consent to receive communications via electronic medium. Should the recipient change their mind, and want further communication to be sent in a different fashion, please contact my office immediately. If the person actually receiving this communication is not the named recipient, any use, dissemination, distribution or copying of the communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone, (325)677-4678, and delete the original message from your system. Thank you

--

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Farr, Melissa <melissa.farr@abilenetx.gov>

Mon, Apr 25, 2022 at 3:57 PM

To: Randy Wilson <rwilson@randywilsonlaw.com>, Planning Services <planning@abilenetx.gov>

Thank you for your response. The message has been received and noted for **CUP-2022-04**.



Melissa E. Farr, Executive Assistant

555 Walnut Street, Suite 110
Abilene, Texas 79601-5254

Post Office Box 60
Abilene, Texas 79604-0060

(325) 676-6237 (Office)

<https://www.abilenetx.gov/424/Planning-Development-Services>

[Quoted text hidden]

For the PLANNING & ZONING COMMISSION
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CASE #: CUP-2022-04

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Name: BRINGHURST CAROL
Parcel I.D.: 1010926
Address: 5749 LEGACY DR

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☐
Additional Comments:

I am opposed ☒

Signature:



APR 27 AM 10:43

555 WALNUT STREET • P.O. BOX 60 • ABILENE, TEXAS 79604-0060

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You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: NORTHCOTT JERRY L & JANET L
Parcel I.D.: 1010925
Address: 5741 LEGACY DR

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☐
Additional Comments:

I am opposed ☒

Signature:



APR 27 AM 10:43

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You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: BARNER MATTHEW C
Parcel I.D.: 1010935
Address: 5933 LEGACY DR

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☐
Additional Comments:

I am opposed ☒

Signature: Matthew Barner

APR 27 AM 10:43

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You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: ROBBINS WILLIAM LYNN &
Parcel I.D.: 1010928
Address: 5809 LEGACY DR

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☐
Additional Comments:

I am opposed ☒

Signature: William Robbins
Patricia Ann Robb

APR 27 AM 10:43

555 WALNUT STREET • P.O. BOX 60 • ABILENE, TEXAS 79604-0060

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You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: TSCHAAR MIKE HEATING &
Parcel I.D.: 24379
Address: 25 WINDMILL CR

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☐
Additional Comments:

I am opposed ☒

Signature: Mike Tschaar

APR 27 AM 10:43

555 WALNUT STREET • P.O. BOX 60 • ABILENE, TEXAS 79604-0060

We work together to build and maintain a community of the highest quality for present and future generations.



Farr, Melissa <melissa.farr@abilenetx.gov>

[Planning] CUP-2022-04 opposition

1 message

Henry Beiro <hhbeiro@gmail.com>

Wed, May 4, 2022 at 8:35 PM

To: planning@abilenetx.gov

Cc: Abby Speed <abby.speed@gmail.com>, Ed Farnsworth <e.farnsworth68@gmail.com>, Henry Beiro <hhbeiro@gmail.com>, Mark Spurlock <bikeabilene@yahoo.com>, Stacey Yandell <yandellhome@att.net>, "Charlie M. Davis" <cmdavis@senderotx.com>

Name: Homeowners at Legacy Village of 59 lots with voting residents, represented by the Board of Directors:

Legacy Village HOA Board of Directors		
Name	Email	Phone
Stacey Yandell	yandellhome@att.net	817-688-8412
Henry Beiro	hhbeiro@gmail.com	502-648-6384
Ed Farnsworth	e.farnsworth68@gmail.com	325-439-0245
Abby Speed	abby.speed@gmail.com	405-612-9124
Mark Spurlock	bikeabilene@yahoo.com	325-338-8507

Parcel ID: 1010965, 1010936, 962637, 962660 are **inside the 200 foot notification zone** for CUP-2022-04.

Herein we unanimously **OPPOSE** CUP-2022-04 as inconsistent with current zoning, detrimental to traffic, and the safety of the area.

When we bought into Legacy Village, we were proud of the value provided by the builders and the City of Abilene to protect our neighborhood. Currently zoned General Retail (GR) we expect the City leaders to be consistent to the plan. The consultant suggests that it is consistent with a change to multi-family using a variance called a Conditional Use Permit. We are concerned that this flexibility in the zoning process is **overcrowding the neighborhood**. We are concerned with the increase of traffic and the lack of changes required by the City to manage this traffic. We are concerned with the current fire department equipment to manage three stories at this end of town in a high density multi family apartment complex. We also believe as stated in Texas regulation delegating authority to local government:

LOCAL GOVERNMENT CODE

TITLE 7. REGULATION OF LAND USE, STRUCTURES, BUSINESSES, AND RELATED ACTIVITIES

SUBTITLE A. MUNICIPAL REGULATORY AUTHORITY

CHAPTER 211. MUNICIPAL ZONING AUTHORITY

SUBCHAPTER A. GENERAL ZONING REGULATIONS

Added by Acts 1991, 72nd Leg., ch. 687, Sec. 18, eff. Sept. 1, 1991. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.81, eff. Sept. 1, 1999.

Sec. 211.004. COMPLIANCE WITH COMPREHENSIVE PLAN.

(a) Zoning regulations **must be adopted in accordance with a comprehensive plan and must be designed to:**

- (1) **lessen congestion** in the streets;
- (2) **secure safety from fire, panic, and other dangers;**

- (3) **promote health and the general welfare;**
- (4) **provide adequate light and air;**
- (5) **prevent the overcrowding of land;**
- (6) **avoid undue concentration of population; or**
- (7) facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public requirements.

Our Taylor County plan emulates these premises. **Please be consistent.**

When I look out my back door to the East, I see the sun come up over the horizon. All of us with property viewing the East do not wish to see a two and three story multifamily complex blocking air and light, producing sights and sounds not in harmony with our neighborhood.

As a Board member of the Legacy Village, I am.

--

Henry H. Beiro
[5825 Legacy Dr](#)
[Abilene, TX 79606](#)
Cell 502-648-6384

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Farr, Melissa <melissa.farr@abilenetx.gov>

[Planning] Fw: Opposition to 15 acre Apartment Complex Across Memorial

3 messages

Jimmy Boulware <jimmy_b84@hotmail.com>

Sun, Apr 24, 2022 at 7:48 PM

To: "anthony.williams@abilenetx.gov" <anthony.williams@abilenetx.gov>, "shane.price@abilenetx.gov" <shane.price@abilenetx.gov>, "lynn.beard@abilenetx.gov" <lynn.beard@abilenetx.gov>, "donna.albus@abilenetx.gov" <donna.albus@abilenetx.gov>, "weldon.hurt@abilenetx.gov" <weldon.hurt@abilenetx.gov>, "kyle.mcalister@abilenetx.gov" <kyle.mcalister@abilenetx.gov>, "travis.craver@abilenetx.gov" <travis.craver@abilenetx.gov>, "planning@abilenetx.gov" <planning@abilenetx.gov>, Yurika Boulware <yurika_mcgill@yahoo.com>

Good Afternoon Abilene City Officials,

I recently moved to Abilene, Texas and purchased a house in Legacy Village.

After being stationed in Alaska for 6.5 years, we were moved to San Antonio. That was one of the worst places I have ever lived, and was even worse trying to raise a family in and provide a safe environment. Once promotion results were released, I was given the option of 4 bases, Dyess being one of them. My family and I immediately picked Dyess for our #1 because I have always heard how much of a hidden gem it is and how highly our friends spoke of it.

Upon arriving, we realized how right they were. We were happy to purchase a house to have our daughters in the famed Wylie School district, and become part of the community. Our family loves how safe and quiet it is, along with the lack of traffic, and actually feel safe going on walks and letting our kids play outside.

With an apartment complex going up behind our place, that would drastically change. I am more than likely on the final assignment of my career, and bought a house as an investment opportunity, the apartments would destroy that.

I am a Combat Wounded Active Duty Service member with a Purple Heart, and don't do the best with crowds, noise, traffic, and the thought of folks watching me.... Well, apartments behind my house would not help that.

We walk our kids to the bus stop each morning and enjoy the walk and how safe it is.... Apartment traffic will destroy that

Each morning I enjoy my drive to work with the lack of traffic, wave at the neighbors walking, and the small town feel... Once again, the apartments will destroy that

I humbly ask that you vote no on the rezoning of the empty lot on Memorial Drive. Please don't let Abilene turn into San Antonio/Austin.

I would hate for our little slice of Heaven be destroyed and ruin what Abilene has been hyped to be.

Thank you for your time and consideration.

Jimmy Boulware

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Jimmy Boulware <jimmy_b84@hotmail.com>

Sun, Apr 24, 2022 at 8:39 PM

To: "anthony.williams@abilenetx.gov" <anthony.williams@abilenetx.gov>, "shane.price@abilenetx.gov" <shane.price@abilenetx.gov>, "lynn.beard@abilenetx.gov" <lynn.beard@abilenetx.gov>, "donna.albus@abilenetx.gov" <donna.albus@abilenetx.gov>, "weldon.hurt@abilenetx.gov" <weldon.hurt@abilenetx.gov>, "kyle.mcalister@abilenetx.gov" <kyle.mcalister@abilenetx.gov>, "travis.craver@abilenetx.gov" <travis.craver@abilenetx.gov>, "planning@abilenetx.gov" <planning@abilenetx.gov>, Yurika Boulware <yurika_mcgill@yahoo.com>

Unfortunately, I will not be able to attend due to being in Alabama for temporary duty. I ask that you put yourselves in our shoes.... Would you want that behind your house? After purchasing a nice house, would you want a multi-level apartment complex being built by your house in a nice area? Apartments would be an eyesore, nowhere near the same architectural design, and unfortunately brings in undesirable people and activities.

Thank you again for your time and consideration.

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From: Jimmy Boulware <jimmy_b84@hotmail.com>

Sent: Sunday, April 24, 2022 7:48:34 PM

To: anthony.williams@abilenetx.gov <anthony.williams@abilenetx.gov>; shane.price@abilenetx.gov <shane.price@abilenetx.gov>; lynn.beard@abilenetx.gov <lynn.beard@abilenetx.gov>; donna.albus@abilenetx.gov <donna.albus@abilenetx.gov>; weldon.hurt@abilenetx.gov <weldon.hurt@abilenetx.gov>; kyle.mcalister@abilenetx.gov <kyle.mcalister@abilenetx.gov>; travis.craver@abilenetx.gov <travis.craver@abilenetx.gov>; planning@abilenetx.gov <planning@abilenetx.gov>; Yurika Boulware <yurika_mcgill@yahoo.com>

Subject: Fw: Opposition to 15 acre Apartment Complex Across Memorial

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I recently moved to Abilene, Texas and purchased a house in Legacy Village.

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Jimmy Boulware

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Farr, Melissa <melissa.farr@abilenetx.gov>

Mon, Apr 25, 2022 at 3:59 PM

To: Jimmy boulware <jimmy_b84@hotmail.com>, Planning Services <planning@abilenetx.gov>

Thank you for your response. The letter has been received and noted for **CUP-2022-04**.



Melissa E. Farr, Executive Assistant

555 Walnut Street, Suite 110
Abilene, Texas 79601-5254

Post Office Box 60
Abilene, Texas 79604-0060

(325) 676-6237 (Office)

<https://www.abilenetx.gov/424/Planning-Development-Services>

[Quoted text hidden]



Farr, Melissa <melissa.farr@abilenetx.gov>

[Planning] Fwd: Zoning for Proposed Windmill Circle Apartments

1 message

Dixie Yurczyk <fleahop101@comcast.net>
To: "planning@abilenetx.gov" <planning@abilenetx.gov>

Sun, May 1, 2022 at 6:06 PM

We are very strongly opposed to the zoning change for the Proposed Windmill Circle Apartments.

Streets and traffic flow will not support all the additional traffic.

Thank you

Dixie Yurczyk
[2309 Preston Trail](#)
[Abilene, TX](#)

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Farr, Melissa <melissa.farr@abilenetx.gov>

[Planning] Request to Deny Conditional use Permit Application # 2022-04

1 message

yandell <yandellhome@att.net>

Tue, May 3, 2022 at 6:35 AM

To: "anthony.williams@abilenetx.gov" <anthony.williams@abilenetx.gov>, "shane.price@abilenetx.gov" <shane.price@abilenetx.gov>, "lynn.beard@abilenetx.gov" <lynn.beard@abilenetx.gov>, "donna.albus@abilenetx.gov" <donna.albus@abilenetx.gov>, "weldon.hurt@abilenetx.gov" <weldon.hurt@abilenetx.gov>, "kyle.mcalister@abilenetx.gov" <kyle.mcalister@abilenetx.gov>, "travis.craver@abilenetx.gov" <travis.craver@abilenetx.gov>, "planning@abilenetx.gov" <planning@abilenetx.gov>

Thank you for your leadership on housing affordability and many other issues of great importance to our community. I'm writing to express my concern and strong opposition to the zoning change under Conditional use Permit Application # 2022-04.

Housing affordability, supply, and security are among the nation's top concerns. However, these should not come at the expense of those residing around Memorial Drive. We bought in this area because of safety and security. Fortunately, the commercial buildings in this area create a "sleepy" feeling after a particular time of day because the streets only house those who live in the area. Yet, with this proposed change, our life will be altered drastically.

Again, I ask that you deny this request.

Concerns with multifamily development include school overcrowding, a surge in crime, increased traffic, and overall degradation of neighborhood appearance. There is also the uniformity of the surrounding areas to consider. Apartment complexes are usually multiple stories, which does not fit the other buildings in the area. Light pollution from the complex will directly affect our privacy. We bought our home and planned to live here through our retirement, the apartments would destroy that.

Again, I ask that you deny this request.

The current General Retail (GR) district offers minimal impact and compatibility with the comprehensive plan. A conditional use permit is considered a characteristic of the land. This land under Section 1.4.3.5 "Criteria for Approval" has items of concern:

- #3 does not preserve the character of adjacent developments,
- #4 generates hazards for pedestrian and vehicular traffic
- #5 proposal fails to provide mitigation for roadway adjustments, traffic control devices
- #6 proposal fails to provide for visual impacts mitigation. e.g. signage, garbage, light pollution at night

Lastly, I ask that you deny this request.

Thank you for your time and consideration.

Gary & Stacey Yandell
 2317 Ians Court
 Abilene, TX 79606
 (817) 368-1040
 (817) 688-8412

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Farr, Melissa <melissa.farr@abilenetx.gov>

[Planning] Fwd: P&Z Case#CUP-2022-04

1 message

Julianna Nickson <juliannanickson@gmail.com>
Bcc: planning@abilenetx.gov

Thu, Apr 28, 2022 at 2:29 PM

Regarding Case#CUP-2022-04

Windmill Acres - Approval of a Conditional Use Permit Allowing Multi-Family Residential Buildings on Approximately 15 Acres of Now-Vacant Land in a General Retail (GR) District

I would like to express that I am adamantly against the development of Apartments on the lots on Windmill.

It should continue to stay General Retail. I am not against an office/medical office. As is it currently zoned is the appropriate use. General Retail is what surrounds the other lots in that area.

This change would only damage the neighborhood.

It would lower the current homeowners property values.

That not only affects the current homeowners, but the tax dollars that the city will receive.

Please vote NO to this proposal.

Thank you,

Julianna Nickson

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Farr, Melissa <melissa.farr@abilenetx.gov>

[Planning] Follow-Up: Zoning Meeting for Proposed Windmill Circle Apartments

1 message

David Upshaw <Davidalanupshaw@msn.com>

Wed, May 4, 2022 at 10:47 AM

To: "anthony.williams@abilenetx.gov" <anthony.williams@abilenetx.gov>, "shane.price@abilenetx.gov" <shane.price@abilenetx.gov>, "lynn.beard@abilenetx.gov" <lynn.beard@abilenetx.gov>, "donna.albus@abilenetx.gov" <donna.albus@abilenetx.gov>, "weldon.hurt@abilenetx.gov" <weldon.hurt@abilenetx.gov>, "kyle.mcalister@abilenetx.gov" <kyle.mcalister@abilenetx.gov>, "travis.craver@abilenetx.gov" <travis.craver@abilenetx.gov>, "planning@abilenetx.gov" <planning@abilenetx.gov>
Cc: David Upshaw <Davidalanupshaw@msn.com>

Hello,

As a homeowner residing at [2325 Biltmore Ct.](#), I'm writing to express my opposition to the proposed location for the Windmill Circle Apartment complex; the currently proposed location is between Memorial Drive and Windmill Circle. Beautiful homes currently line Memorial Drive. Placing a 15-acre apartment complex directly across from these million-dollar homes is an incompatible and unacceptable mix that detracts from the peaceful, isolated neighborhood atmosphere in which we reside. This is one of the primary reasons we chose to live here. This project is threatening to disrupt the neighborhood that we and all of the other homeowners here have created and invested in.

Thank you for listening to our concerns.

Respectfully,

David A. Upshaw

[2325 Biltmore Ct.](#)[Abilene, TX 79606](#)

325-200-9700

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Farr, Melissa <melissa.farr@abilenetx.gov>

[Planning] Memorial Drive Apartment Complex1 message

Paul Freiheit <thebookies81@gmail.com>

Sun, May 1, 2022 at 10:50 AM

To: anthony.williams@abilenetx.gov, donna.albus@abilenetx.gov, weldon.hurt@abilenetx.gov, kyle.mcalister@abilenetex.gov, travis.craver@abilenetx.gov, planning@abilenetx.gov, Candy Freiheit <thebookies@aol.com>

Cc: shane.price@abilenetx.gov, lynn.beard@abilenetx.gov

Hi. My name is Paul Freiheit and I live at [2333 Lynbrook drive](#), a couple blocks from the proposed apartment development. My wife Candice and I are strongly opposed to an apartment complex this close to our house mostly due to excessive traffic concerns. We moved here before Sam's club was here and that quadrupled the traffic in and of itself.

Our two votes are no

Thank you

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Farr, Melissa <melissa.farr@abilenetx.gov>

[Planning] Plannin & Zoning Meeting - Windmill Circle Apartments

1 message

john reed <johnreedtx@hotmail.com>

Sat, Apr 30, 2022 at 10:39 AM

To: "anthony.williams@abilenetx.gov" <anthony.williams@abilenetx.gov>, "shane.price@abilenetx.gov" <shane.price@abilenetx.gov>, "lynn.beard@abilenetx.gov" <lynn.beard@abilenetx.gov>, "donna.albus@abilenetx.gov" <donna.albus@abilenetx.gov>, "weldon.hurt@abilenetx.gov" <weldon.hurt@abilenetx.gov>, "kyle.mcalister@abilenetx.gov" <kyle.mcalister@abilenetx.gov>, "travis.carver@abilenetx.gov" <travis.carver@abilenetx.gov>
Cc: "planning@abilenetx.gov" <planning@abilenetx.gov>

Mr. Mayor, City Council Members & Planning Committee:

I am writing to register my opposition to a zoning change to permit a 15 acre apartment complex between Memorial Drive & Windmill Circle.

I live at 2334 Preston Trail 79606.

Such a complex will substantially increase traffic into & through residential neighborhoods west of Memorial Drive where many children play and will present a danger to them.

Unfortunately, I am unable to attend the hearing on May 3rd but wanted to register my complete opposition to such a zoning change.

Thanks for your consideration.

Respectively,

John Reed

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Farr, Melissa <melissa.farr@abilenetx.gov>

[Planning] Memorial Drive Zoning Request

1 message

'Amber Ponder' via Planning Services <planning@abilenetx.gov>

Mon, May 2, 2022 at 8:19 AM

Reply-To: Amber Ponder <adponder21@yahoo.com>

To: anthony.williams@abilenetx.gov, planning@abilenetx.gov

Dear Mayor Williams,

I am strongly opposed to rezoning the area on Memorial Drive to allow for high-density, low income housing. Not only am I a resident of Wyndham, I provide anesthesia services for Abilene Eye Institute Cataract and Refractive Surgery Center which stands almost directly adjacent to the area to be considered for rezoning. I live and work in the epicenter of the proposed area and this decision will impact me directly.

As city council, you have an obligation to protect the financial interests of your residents and allow them to maintain the character of the neighborhoods they've chosen to for their most important investment, their homes. Stanford business professor, Rebecca Diamond (Who Wants Affordable Housing in their Backyard? An Equilibrium Analysis of Low Income Property Development), has demonstrated that low-income housing developments in wealthier neighborhoods drives down prices and decreases racial diversity. A typical low-income development results in a \$17 million loss. This is compounded by the reality of Hendrick's acquisition of Abilene Regional Medical Center that extended a non-profit umbrella costing the Wylie Independent School District significant tax revenue generation.

It makes no sense to re-zone an area that's experiencing financial investment and growing. In the last four years, an endoscopy center, a surgery center, several doctor's offices, a strip mall, dentistry centers, an assisted living community, and several restaurants have been established, not to mention the multiple single-home developments. This is the kind of growth that Abilene needs and I think it is foolish to sabotage that with a low-income project that the community doesn't want.

Lastly, I support low-income housing projects when they are intelligently implemented and the impacted community has a say in the process. I think this proposal is the antithesis of intelligent implementation and community involvement. The reality is that the social benefit low-income residents receive comes at a cost to the community, especially if the proposed project is a high-density, multi-story apartment complex.

Thank you!

Dr. Amber Ponder DNAP, CRNA

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Farr, Melissa <melissa.farr@abilenetx.gov>

[Planning] Proposed rezoning on Memorial Drive

1 message

'Jonathon Ponder' via Planning Services <planning@abilenetx.gov>

Mon, May 2, 2022 at 9:55 AM

Reply-To: Jonathon Ponder <jtponder@yahoo.com>

To: "anthony.williams@abilenetx.gov" <anthony.williams@abilenetx.gov>, "shane.price@abilenetx.gov" <shane.price@abilenetx.gov>, "lynn.beard@abilenetx.gov" <lynn.beard@abilenetx.gov>, "donna.albus@abilenetx.gov" <donna.albus@abilenetx.gov>, "weldon.hurt@abilenetx.gov" <weldon.hurt@abilenetx.gov>, "kyle.mcalister@abilenetx.gov" <kyle.mcalister@abilenetx.gov>, "travis.craver@abilenetx.gov" <travis.craver@abilenetx.gov>, "planning@abilenetx.gov" <planning@abilenetx.gov>

Dear Councilmen and Councilwomen,

I strongly oppose the rezoning proposal on Memorial Drive to allow for low-income housing. At the outset, I want it known that I'm an advocate of affordable housing projects provided they are intelligently and considerately implemented. I recognize the social, academic, and professional benefits that low-income residents realize through affordable housing initiatives. That benefit does not, however, exist in a vacuum and poor implementation can be exploitive to the community.

This rezoning proposal directly aligns with HUD's Affirmative Furthering Fair Housing regulation, which is a clear mandate to back-door annex suburbs and nullify wealthier neighborhood boundaries. Affordable housing also seeks property tax concessions from local governments. In effect, these high density developments force quiet communities to import population from elsewhere, at their own expense, where the neighborhood must live with the consequences.

Stanford professors, Rebecca Diamond and Tim McQuade, conducted a study (*Who wants affordable housing in their backyard? An equilibrium analysis of low income property development*) that is often used to tout the outcome improvements that occur moving children from poorer neighborhoods to higher-income ones while conveniently leaving out the negatives. Specifically, they demonstrated that affordable housing only revitalizes low-income areas where investment is sparse or absent. In addition, this strategy better achieves diversity goals. In higher income areas, affordable housing is not viewed as an amenity and results in strong housing price drops locally that radiates outward over time. In a low-income region, a low-income project is worth about \$116 million to the immediate surrounding neighborhood. Conversely, in higher income areas, these projects create a \$17 million loss.

As city council members, you have a duty to protect financial interests of your citizens and allow them to preserve the elements of their neighborhoods that attracted them in the first place. This requires long-term vision. I would be a proponent of a project involving single family homes or 2-3 unit condo-style builds, but a high-density, low-income apartment complex will always be a high-density, low-income apartment complex. Considering the very real outward sprawl towards Tuscola and the Jim Ned school district, it makes no sense to discourage investment in our neighborhood with a low-income apartment complex. Furthermore, this kind of decision-making also removes the opportunity for 15 acres of commercial expansion that would generate real economic growth.

All I'm asking is that you let logic prevail. Implement these projects in areas that lack investment so Abilene can reap the full benefit. This area is experiencing increasing home values and financial investment. For example, in the last 4 years, I've seen development in the form of 2 surgery centers, 2 investment management businesses, a large dental practice, offices for an oral surgeon and an allergist/immunologist, new strip malls, a physician primary care practice, a car wash, an assisted living community, and numerous

restaurants in addition to multiple single-family home developments in the area. In addition, many families are renovating homes in this area. This growth should be nurtured, and the zoning restrictions should be respected.

In the early 2000's, Trenton, New Jersey had developed over 6000 low-income units when its surrounding neighbors had around 200 each. While the rest of the state was realizing increasing median household incomes around 6%, Trenton was realizing a 6% decrease in median income, decreasing home values, and diminishing school performance. This should be a cautionary tale for Abilene. It is unjust to wholesale our neighborhood so a developer can make a tax-subsidized profit selling what is not his: the value we have created in our neighborhoods. It certainly makes no sense to stifle private investment in our community when there are so many areas in our city that desperately needs investment and rehabilitation.

Please maintain the current zoning. Help Abilene grow in a measured, rational fashion that grows the economy, produces opportunity, and protects what our residents have created. Changing zoning rules on a whim is not a healthy habit for a city intent on growth. This is especially true when it comes to placing low-income housing. It violates the trust of the citizens you have a duty to protect and diminishes value.

Thank you,

Jonathon Ponder, Wyndam Place homeowner and anesthesia provider for the community.

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Farr, Melissa <melissa.farr@abilenetx.gov>

[Planning] Re: 15-acre "affordable housing" apartment complex on Memorial Drive at Windmill Acres

1 message

'Joe Alexander' via Planning Services <planning@abilenetx.gov>

Tue, Apr 26, 2022 at 4:51 PM

Reply-To: Joe Alexander <joealexander@icloud.com>

To: planning@abilenetx.gov

Cc: anthony.williams@abilenetx.gov, shane.price@abilenetx.gov, lynn.beard@abilenetx.gov, donna.albus@abilenetx.gov, weldon.hurt@abilenetx.gov, kyle.mcalister@abilenetx.gov, travis.craver@abilenetx.gov

Ladies & Gentlemen:

I wish I could attend this hearing in person, but my time does not permit attending during my patient hours.

I am a homeowner is Waterside at Wyndham. I am concerned about the potential development of the 15 acres on Windmill Circle for Affordable housing (or for that matter, any housing project.). The current zoning of this location does not permit any residential development for a good reason. It is commercial property and should stay that way. Current ingress and egress to Windmill Circle is via Clack St. The western side of the proposed development fronts Memorial Drive. If access to Memorial Drive is included in the project (which only makes sense), this will put the majority of the traffic taking a winding route through residential street that were not engineered for the amount of current traffic, much less any additional traffic. Currently, this route is used in excess of original planning due to the construction of Sam's Club. Lynbrook Drive is the only street that allows connection to Buffalo Gap Road and points north. Foot traffic and bicycle traffic is already at danger with current traffic. The streets are too narrow to allow street parking (which is often present during the day) and for 2 cars to be able to pass.

I urge the Council to consider current residents safety before making any decisions on the development. At the very least, if approval is considered, divert all access onto Clack Street and not Memorial Drive. The land on Windmill Circle should, in my opinion, remain industrial/commercial and not be changed to any type of residential development.

Thank you for your consideration.

Joe Alexander, MD
 5258 Wyndham Ct.
 Abilene, TX 79606
joealexander@icloud.com
 325-668-7474

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Farr, Melissa <melissa.farr@abilenetx.gov>

[Planning] a 15 acre apartment complex on Memorial Drive (5650-5660 Memorial Drive)

2 messages

Randy Wilson <rwilson@randywilsonlaw.com>

Mon, Apr 25, 2022 at 8:34 AM

To: kyle.mcalister@abilenetx.gov, donna.albus@abilenetx.gov, anthony.williams@abilenetx.gov, shane.price@abilenetx.gov, lynn.beard@abilenetx.gov, weldon.hurt@abilenetx.gov, travis.craver@abilenetx.gov, planning@abilenetx.gov

As residents of Wyndham Court and Waterside @ Wyndham, we all oppose the project for apartments at the above location.

1

The traffic on Memorial, Lynbrook, is already too heavily traveled, even by vehicles which are supposed to be prohibited from traveling on Lynbrook, Innisbrook Covenant, and Peppermill streets. Memorial has become a "raceway" and backdoor to Sam's Club. This project will only add to the problems facing the residents who already live next to Memorial as well as the residents in the neighborhood who walk their dogs, walk, jog, walk the children in strollers, ride bicycles both adult and children along Memorial and adjacent streets.

With kindest regards, I remain
Very truly yours,
Randy Wilson

rwilson@randywilsonlaw.com

The information contained in this communication is a transmission from the Law Offices of Randy Wilson and Kristin Postell, PLLC and is information protected by the attorney/client and/or attorney/work product privilege. It, along with any attachments hereto, is also covered by the Electronic communications Privacy Act, 18 U.S.C. Sections 2510-2512. This e-mail is intended only for the personal and confidential use of the recipient(s) named in the communication, and the privileges are not waived by virtue of this having been sent by electronic mail. Recipient named herein has indicated consent to receive communications via electronic medium. Should the recipient change their mind, and want further communication to be sent in a different fashion, please contact my office immediately. If the person actually receiving this communication is not the named recipient, any use, dissemination, distribution or copying of the communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone, (325)677-4678, and delete the original message from your system. Thank you

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Farr, Melissa <melissa.farr@abilenetx.gov>

Mon, Apr 25, 2022 at 3:57 PM

To: Randy Wilson <rwilson@randywilsonlaw.com>, Planning Services <planning@abilenetx.gov>

Thank you for your response. The message has been received and noted for **CUP-2022-04**.



Melissa E. Farr, Executive Assistant

555 Walnut Street, Suite 110
Abilene, Texas 79601-5254

Post Office Box 60
Abilene, Texas 79604-0060

(325) 676-6237 (Office)

<https://www.abilenetx.gov/424/Planning-Development-Services>

[Quoted text hidden]

For the PLANNING & ZONING COMMISSION

Please call (325) 676-6237 if you have any questions about this notice.

CASE #: CUP-2022-04

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: RAMSEY CYNTHIA

Parcel I.D.: 982651

Address: 5602 LEGACY DR

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☐

I am opposed ☒

Additional Comments:

Signature:

Cindy Ramsey

I am not opposed to progress, however, apartments don't fit into the already well-established, Hot Neighborhood. Please refer to letter I sent on 4/28/22.

555 WALNUT STREET • P.O. BOX 60 • ABILENE, TEXAS 79604-0060

We work together to build and maintain a community of the highest quality for present and future generations.



Farr, Melissa <melissa.farr@abilenetx.gov>

[Planning] Legacy Village - Rezoning Request Across Memorial

1 message

James Parker <jparkerins@sbcglobal.net>

Sat, Apr 30, 2022 at 9:25 AM

To: anthony.williams@abilenetx.gov

Cc: Shane.price@abilenetx.gov, Lynn.beard@abilenetx.gov, Donna.albus@abilenetx.gov, Weldon.hurt@abilenetx.gov, kyle.mcalister@abilenetx.gov, Travis.craver@abilenetx.gov, planning@abilenetx.gov

To: The Mayor, City Councilmen, and City Councilwomen,

Our purpose for writing to each of you is to express concern about the proposed zoning change at the following locations:

5601 Memorial
 28 Windmill Circle
 32 Windmill Circle
 34 Windmill Circle
 36 Windmill Circle

All of the above properties are across Memorial from our sub-division of Legacy Village.

It is our desire to inform the City Council and the Planning and Zoning Commission of our opposition to the re-zoning of those locations from General Commercial to zoning that would allow a large apartment complex to be built.

If this re-zoning is granted, it will directly affect the volume of traffic on Memorial, which has already become quite busy during the day. Adding the greatly increased volume of traffic from an apartment complex, it will become even more congested, not only during the daytime, but during the nighttime as well. The noise factor would be much greater than it is now, both day and night.

We are retired and we purchased our property in 2019 because of the quiet neighborhood and the proximity to close medical facilities. We have wonderful neighbors of similar age who have become our new friends. Each has expressed great satisfaction with our neighborhood and the ability to look out for the wellbeing of each other. It is a great place to enjoy a quiet and peaceful retirement, along with our new neighbors.

Not only is our neighborhood made up of retirees, but the greater neighborhood has young couples with children. We believe an apartment complex would create a safety hazard for these as they are walking, biking, and doing the things young children do. As citizens of Abilene, all of us are concerned about child safety.

For all these reasons, and more, we are opposed to the zoning change and sincerely request that the change not be granted.

Respectively,

James & Carole Parker
 5618 Legacy Drive

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Farr, Melissa <melissa.farr@abilenetx.gov>

[Planning] Rezoning Request Legacy Village

1 message

Marjorie Abendschan <jandmabendschan@gmail.com>

Fri, Apr 29, 2022 at 12:42 PM

To: anthony.williams@abilenetx.gov

Cc: shane.price@abilenetx.gov, lynn.beard@abilenetx.gov, donna.albus@abilenetx.gov, weldon.hurt@abilenetx.gov, kyle.mcalister@abilenetx.gov, travis.craver@abilenetx.gov, planning@abilenetx.gov, Charles Davis <cmdavis@senderotx.com>

Do you realize when you are 82 years old, raised five children, worked hard professionally and saved for years and then you build that quiet place to spend your latter years...what a disappointment it would be for apartments across the street to go in. There would be noise, traffic and all that comes with apartment communities. Also, my profession was 30 years as a realtor, so right up at the top of all the years of saving for my latter years, my property value will drop. Please bring this before your meeting and consider this is mostly others that are retired and settled in.

Thank you for your consideration and anything you can do to help us keep our neighborhood safe.

Marjorie Abendschan
5626 Legacy Dr.
Abilene, TX. 79606

Sent from my iPad

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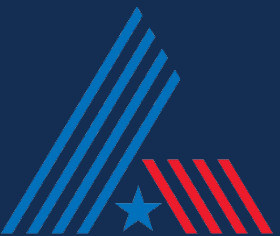
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REZONE

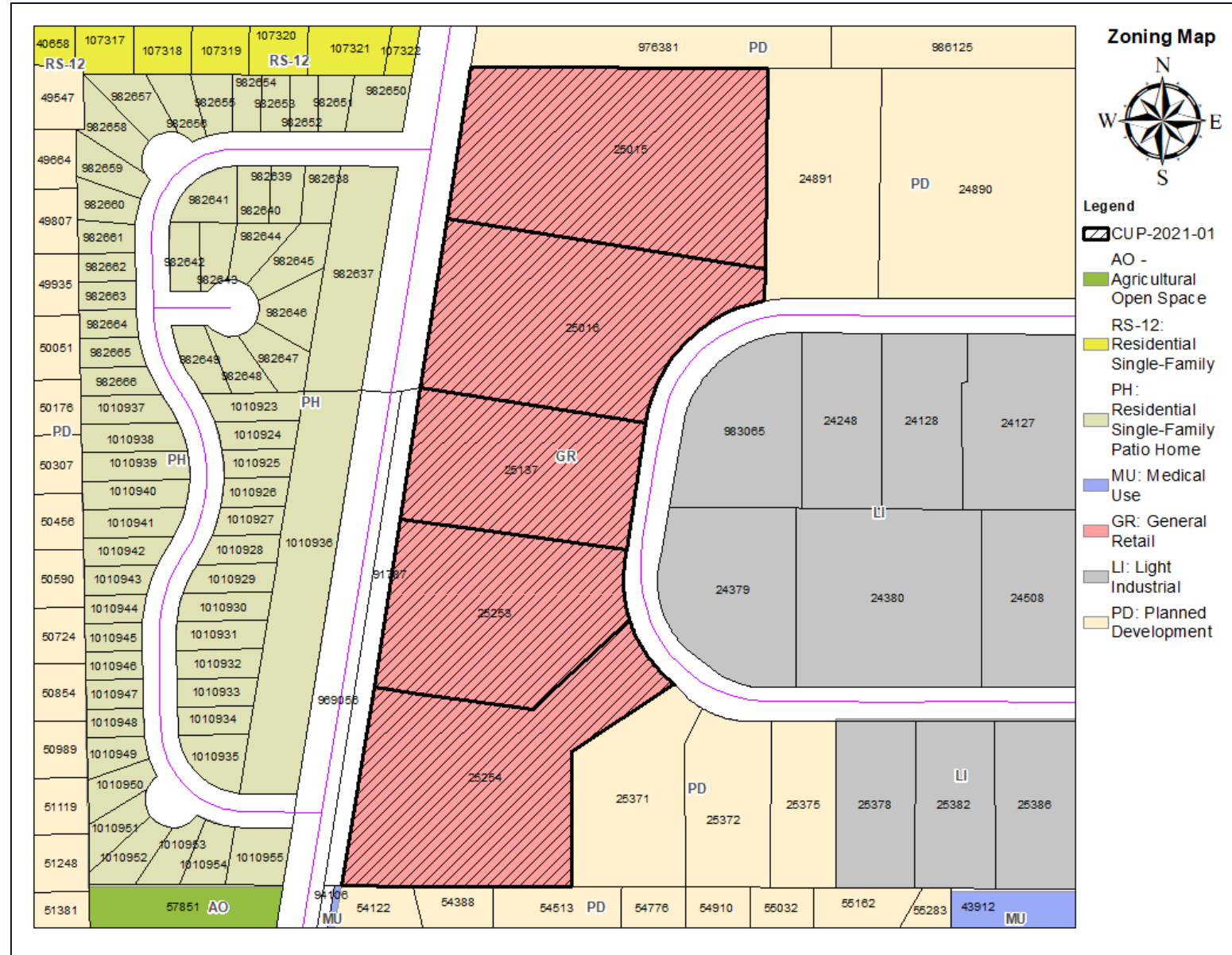
Case: CUP-2022-04
Owner: Windmill Circle Apartments LLC
Agent: Enprotec Hibbs and Todd, LLC
Request: Add Conditional Use Permit to General Retail District (GR)
Location: 5601 Memorial Drive
Notification: 0 in Favor, 7 Opposed within buffer
Planning & Zoning: June 7, 2022
City Council Hearings: June 23, 2022
July 14, 2022



CUP-2022-04 LOCATION MAP



CUP-2022-04 ZONING MAP



CUP-2022-04 PHOTOS

North view of Subject Properties



South view along Memorial
DR. at North Legacy Village Dr.
Entrance



Legacy Village Dr.
North Entrance



South view along Memorial
DR. at South Legacy Village Dr
Entrance



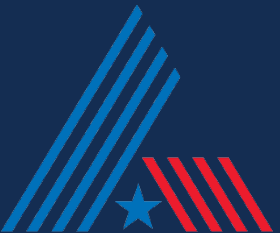
North neighboring property



East neighboring property



East neighboring property



Permitted Uses in GR Zoning

RESIDENTIAL USES:

- P Bed & Breakfast
- P Dwelling – Industrialized Housing Unit
- P Dwelling – Institutional
- C Dwelling – Multiple-Family
- P Dwelling – Single Family Detached
- P Hotel/Motel

ACCESSORY AND INCIDENTAL USES:

- P Accessory Structure (Also see Division 4 of this article)
- P Antenna, Non-Commercial/Amateur
- P ATM's, Self-Serve Kiosks, and Similar Facilities
- P/C Day Care Operation – Home Based
- P Drive-Thru Facility
- TP Field Office or Construction Office (temporary)
- C Freight Container
- P Fuel Sales
- P Garage Sales
- P Home Occupation
- TP Itinerant Business
- P Manufacturing (incidental)
- TP Mobile Home (temporary security residence)
- P Recreation Building, Multipurpose
- P Recreation Equipment, Mobile (storage and parking)
- P Recycling Collection Point
- P Subdivision Sales Office (temporary)
- P Swimming Pools, Private (accessory to residential use)
- P Tennis Courts, Private (accessory to residential use)
- P/SE Wind Energy Conversion Systems

CULTURAL AND RECREATIONAL USES:

- P Civic, Social, and Fraternal Organization
- P Cultural Facilities
- C Recreation – Outdoors (active)
- P Recreation – Outdoors (passive)
- P Recreation and Commercial Entertainment - Indoor

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- C Ambulance Service
- P Fire/Police Station
- P Medical/Dental Laboratory
- P Post Office
- C Social Service Facility

EDUCATIONAL AND RELIGIOUS USES:

- P Arts School
- P Church or Place of Worship
- P Day-Care Operation - Center-Based
- P Educational and Scientific Research
- P School: Public/Private
- C Trade/Business School
- P University/College

SERVICE

- P/C Automobile Wash
- C Funeral Home/ Mortuary/Morgue
- P Kennel (Without Outdoor Pens)
- P Laundry/Dry Cleaning Services & Facilities
- P Office (general, professional, financial)
- P Personal Services
- C Printing, Copying, Reproduction, Publishing
- P Repair and Maintenance Services - Automobile/Small Truck (minor)
- P Repair and Maintenance Services (indoor)
- C Tattoo Parlor
- P Veterinary Service (small animals)

TRADE – RETAIL USES

- P ATM's, Self-Serve Kiosks, and Similar Facilities
- P Fuel Sales
- P Liquor Store (Off Premises Consumption) (*Defined under Liquor Store*)
- P Liquor Store (On Premises Consumption) (*Defined under Liquor Store*)
- P Restaurant, Brew Pub
- P Restaurant, Fast Food
- P Restaurant, Standard
- P Retail Sales/Rental (indoor)
- C Retail Sales/Rental (outdoors, non-vehicle)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- C Antenna Tower- Commercial
- P Automobile Parking Lot or Structure - Commercial
- P Broadcast Studio
- P Public Utility Facility

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Petroleum or Gas Well
- P Urban Garden

LEGEND

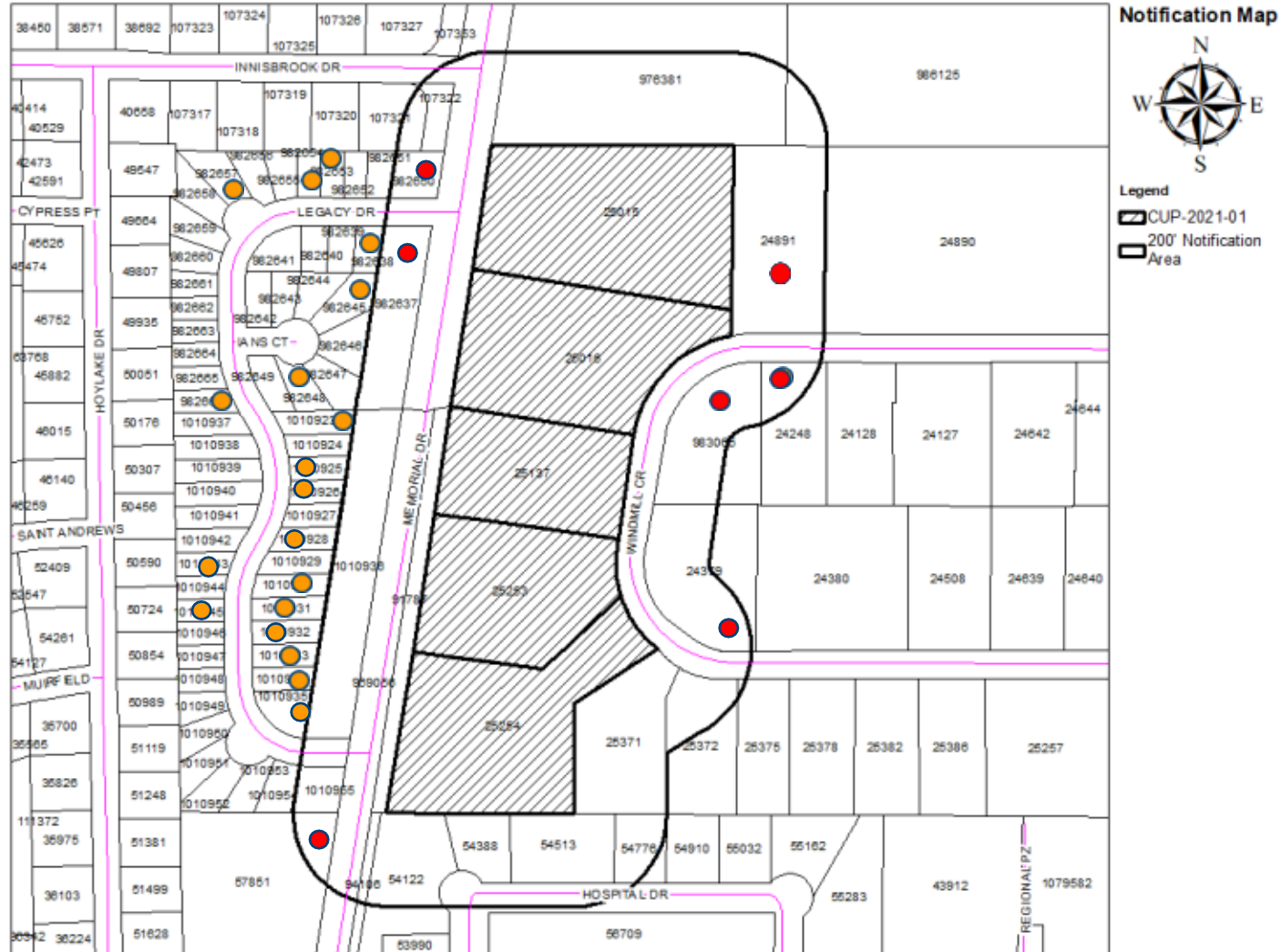
P
C
TP

Permitted as a Right-of-Use (may be subject to compliance with conditions described within Division 3- Requirements Applicable to Specific Land Uses of the Land Development Code)
Permitted as a Conditional Use Permit, Requiring Approval by City Council
Permitted by Temporary Permit Only, Requiring Approval by Board of Adjustment

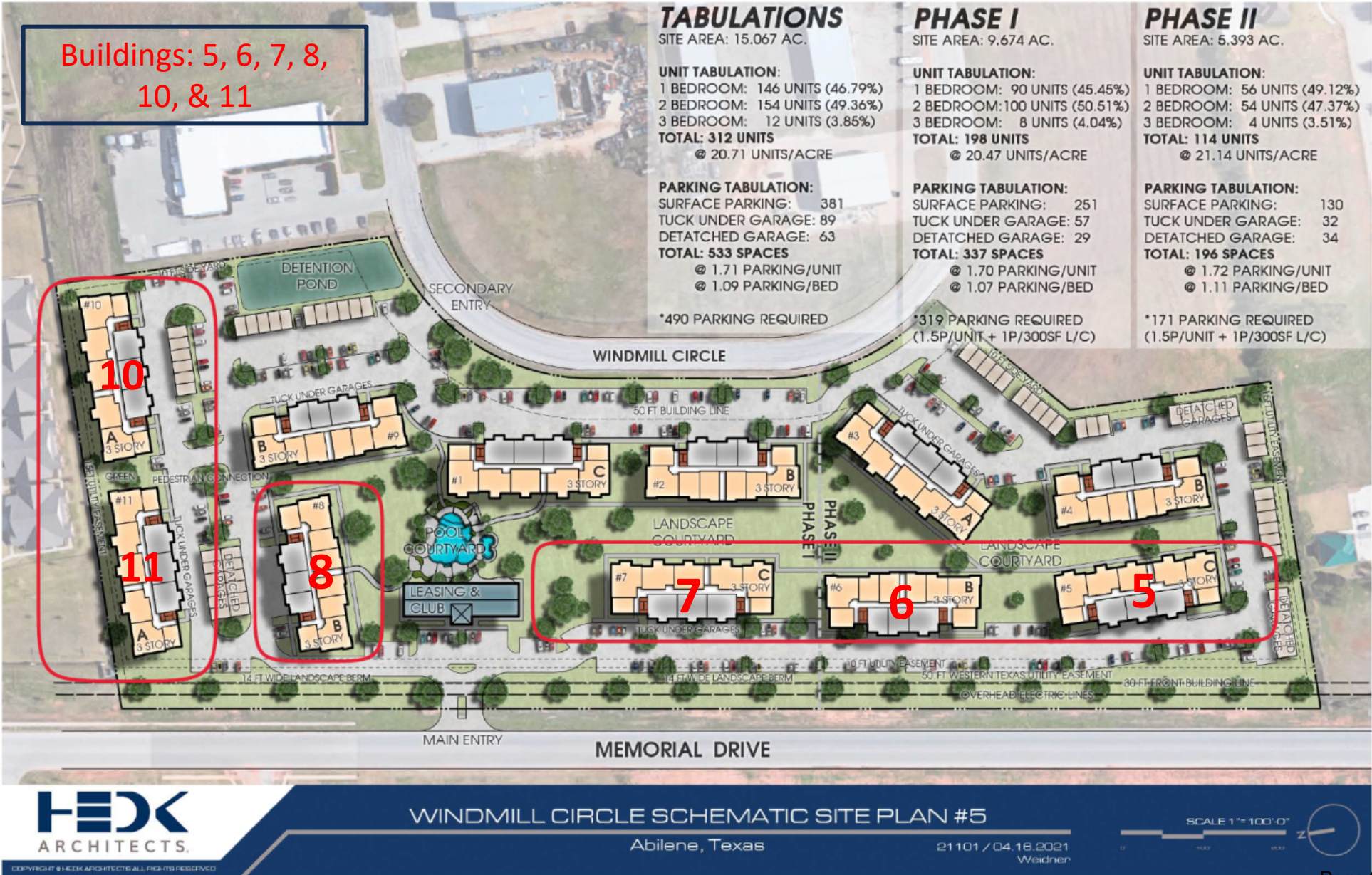
CUP-2022-04 CONCEPT PLAN



CUP-2022-04 NOTIFICATION MAP



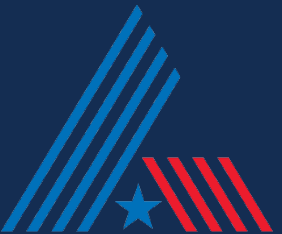
CUP-2022-04 CONCEPT PLAN (RECOMMENDATION)



- Consistent with *Comprehensive Plan* and *Future Land Use and Development Plan Map*
- Reviewed Pursuant to Section 1.4.3.5 of Land Development Code (Criteria for Approval)
- Staff Recommendation: Same as P & Z
- P & Z Recommendation: Approval with conditions:
 - The proposed Multiple- Family dwellings that are adjacent to Memorial Drive and the dwellings that are adjacent to the north property line shall have a height restriction of two (2) stories, and a type “A” land use buffer shall be required along the north property line. In addition, a seven (7’) foot masonry wall shall be required along memorial drive.



Questions





**City Council
Agenda Memo**

City Council Meeting Date: 6/23/2022

TO: Robert Hanna, City Manager

FROM: Lesli Andrews, Director

SUBJECT: 12. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Authorizing the City Manager to enter into a contract with Bontke Brothers Construction Company, Inc. for the Cedar Creek Development Trail Project (*Lesli Andrews*)

GENERAL INFORMATION

The City of Abilene voted to pass a 2015 bond for a linear trail along Cedar Creek and Lytle Creek. The City of Abilene submitted requests for a Best Value Competitive bids for the Cedar Creek Trail Development Project. Three bid responses were received on April 28th, with responses received from Justice Construction, Inc., Bontke Brothers Construction, Inc., and TCL Construction.

A committee of members from the Parks and Recreation Department and the Public Works Department graded the bid responses. The responses were graded for best value in the following categories:

1. the price;
2. the offeror's experience and reputation;
3. the quality of the offeror's goods or services;
4. the impact on the ability of the City of Abilene to comply with rules relating to historically underutilized businesses;
5. the offeror's safety record;
6. the offeror's proposed personnel;
7. offeror's past working relationship with the City

Beyond price, factors in the selection were: 1. Experience doing this type of work, 2. Personnel available to work on the project, 3. Past track record with meeting deadlines on city projects, 4. Due to the experience of the bidders, additional staff time required to oversee the project. Due to the price difference, the committee was very attentive in evaluating the companies before making a recommendation. In the end, the proven day to day experience with this type of project is what ultimately resulted in the committee recommending Bontke Brothers Construction, Inc. as the Best Value bidder for this project.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

\$829,270.92 will come from the remaining 2015 bond allocations and \$1,537,079.08 will come from the Minor Improvement Fund for a total of \$2,366,350.

STAFF RECOMMENDATION

Staff recommends approval of the contract with Bontke Brothers Construction Company, Inc. for the Cedar Creek Trail Development project in the amount of \$2,366,350.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. 2022 Resolution Bontke Cedar Creek Development Trail Project
2. CB2234 TABSHEET
3. 2022.04.29 ABL20718_Bid Tab
4. Cedar Creek Best Value Tab
5. Bontke Contract Cedar Creek 692022
6. Presentation Cedar Creek Development Trail Project

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH
BONTKE BROTHERS CONSTRUCTION, INC. FOR THE CEDAR CREEK
DEVELOPMENT TRAIL PROJECT**

WHEREAS, the City of Abilene intends to develop the Cedar Creek Trail Project; and

WHEREAS, the City of Abilene received three responses to its Best Value Competitive Bidding selection process; and

WHEREAS, the City of Abilene evaluated the bid responses according to the best value criteria, and selected Bontke Brothers Construction, Inc. as providing the best value for the City of Abilene; and

WHEREAS, the funding for the project will come from the Minor Improvement Fund and remaining funds from 2015 Bond.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY
OF ABILENE, TEXAS:**

Part 1: The City Manager is hereby authorized to enter into a contract with Bontke Brothers Construction, Inc. for the Cedar Creek Development Trail Project for an amount of \$2,366,350.00.

Part 2: That this Resolution shall take effect immediately from and after passage.

ADOPTED this 23rd day of June 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

**CITY OF ABILENE
PURCHASING DIVISION
TABULATION OF BIDS**

PAGE
1 OF 1

DEPARTMENT: PARKS & REC
BID NO.: CB-2234
TIME OF OPENING: 2:00 P.M.
DATE OF OPENING: APRIL 28, 2022

JUSTICE CONSTRUCTION
ABILENE, TX

BONTKE BROTHERS
ABILENE, TX

TCL CONSTRUCTION
SAN ANTONIO, TX

ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION
1.	CEDAR CREEK TRAIL DEVELOPMENT PROJECT				1,884,263.00		2,186,350.00		2,364,735.00						
2.	ADD ALTERNATE – COLORED CONCRETE				103,410.00		180,000.00		75,000.00						
BASE BID					1,987,673.00		2,366,350.00		2,439,735.00						
DISCOUNT															
TOTAL BID					1,987,673.00		2,366,350.00		2,439,735.00						

*NOTES: INDICATES RECOMMENDED AWARD

Bid Tabulation							
Project:		Cedar Creek Trail Development		FNI Estimate: \$ 2,299,525.00			
Client:		City of Abilene, Parks and Rec. Department		Bid Anomalies: 			
Project Number:		ABL20718					
Bid Closing Date:		28-Apr-22					
		Justice Construction, Inc.		Bontke Brothers Construction Inc.		TCL Construction Entp. Inc.	
Bid Item Number	Description	Unit Price	Bid	Unit Price	Bid	Unit Price	Bid
1	DEMOLITION	\$ 15,850.00	\$ 15,850.00	\$ 60,000.00	\$ 60,000.00	\$ 35,000.00	\$ 35,000.00
2	TREE PROTECTION	\$ 2.83	\$ 19,810.00	\$ 3.00	\$ 21,000.00	\$ 4.75	\$ 33,250.00
3	EROSION CONTROL	\$ 3.00	\$ 30,300.00	\$ 2.00	\$ 20,200.00	\$ 5.00	\$ 50,750.00
4	EARTHWORK	\$ 165,550.00	\$ 165,550.00	\$ 100,000.00	\$ 100,000.00	\$ 140,000.00	\$ 140,000.00
5	PARKING LOT	\$ 11,997.00	\$ 11,997.00	\$ 15,000.00	\$ 15,000.00	\$ 161,862.00	\$ 161,862.00
6	6' CONCRETE TRAIL	\$ 40.50	\$ 34,830.00	\$ 57.00	\$ 49,020.00	\$ 48.00	\$ 41,280.00
7	8' CONCRETE TRAIL	\$ 54.00	\$ 66,420.00	\$ 76.00	\$ 93,480.00	\$ 64.00	\$ 78,720.00
8	12' CONCRETE TRAIL	\$ 81.00	\$ 708,750.00	\$ 95.00	\$ 831,250.00	\$ 97.00	\$ 848,750.00
9	LOW WATER CROSSINGS	\$ 6,900.00	\$ 13,800.00	\$ 40,000.00	\$ 80,000.00	\$ 5,000.00	\$ 10,000.00
10	HWY 80 UNDERCROSSING	\$ 12,100.00	\$ 12,100.00	\$ 25,000.00	\$ 25,000.00	\$ 37,000.00	\$ 37,000.00
11	TRAILHEAD IMPROVEMENTS	\$ 104,466.00	\$ 104,466.00	\$ 50,000.00	\$ 50,000.00	\$ 52,323.00	\$ 52,323.00
12	HANDICAP RAMPS	\$ 18,530.00	\$ 18,530.00	\$ 12,000.00	\$ 12,000.00	\$ 16,300.00	\$ 16,300.00
13	SMALL SIGNS	\$ 10,626.00	\$ 10,626.00	\$ 9,000.00	\$ 9,000.00	\$ 10,000.00	\$ 10,000.00
14	INTERPRETIVE SIGNS	\$ 3,650.00	\$ 10,950.00	\$ 12,000.00	\$ 36,000.00	\$ 5,000.00	\$ 15,000.00
15	SITE AMENITIES	\$ 80,304.00	\$ 80,304.00	\$ 79,400.00	\$ 79,400.00	\$ 111,500.00	\$ 111,500.00
16	TURF ESTABLISHMENT	\$ 112,000.00	\$ 112,000.00	\$ 150,000.00	\$ 150,000.00	\$ 132,000.00	\$ 132,000.00
17	RAILROAD CANOPY STRUCTURE	\$ 153,360.00	\$ 153,360.00	\$ 100,000.00	\$ 100,000.00	\$ 175,000.00	\$ 175,000.00
18	RAILROAD PIPE GATE AND FENCING	\$ 18,325.00	\$ 18,325.00	\$ 50,000.00	\$ 50,000.00	\$ 41,000.00	\$ 41,000.00
19	RAILROAD ADMINISTRATIVE COSTS	\$ 3,295.00	\$ 3,295.00	\$ 5,000.00	\$ 5,000.00	\$ 50,000.00	\$ 50,000.00
20	GENERAL CONDITIONS	\$ 28,000.00	\$ 28,000.00	\$ 150,000.00	\$ 150,000.00	\$ 50,000.00	\$ 50,000.00
21	BONDS, INSURANCE AND MOBILIZATION	\$ 65,000.00	\$ 65,000.00	\$ 50,000.00	\$ 50,000.00	\$ 75,000.00	\$ 75,000.00
SP-1	OWNERS CONTINGENCY	\$ 200,000.00	\$ 200,000.00	\$ 200,000.00	\$ 200,000.00	\$ 200,000.00	\$ 200,000.00
Total Base Bid Amount		\$ 1,884,263.00		\$ 2,186,350.00		\$ 2,364,735.00	
Stated Bid Amount		\$ 1,856,263.00		\$ 2,186,350.00		\$ 2,439,735.00	
Bid Variance		\$ (28,000.00)		\$ -		\$ 75,000.00	
ALT-1	ADD ALT NO. 1 - COLORED CONCRETE	\$ 103,410.00		\$ 180,000.00		\$ 75,000.00	

Working Days Base Bid:	180	150	225
Working Days Alternate Bid:	N/A	20	30
Complete Bid:	Yes	Yes	Yes
Addendum Acknowledgement:	Yes	Yes	Yes
Work Experience with City:	Yes	Yes	No
Similar Work Experience:	Yes	Yes	Yes

City of Abilene	
Best Value Competitive Bidding Process Review	
Date: April 28, 2022	
Name of Project: Cedar Creek Trail	

[illegible]

CONSTRUCTION CONTRACT

BACKGROUND

THIS CONTRACT, made on the 9th day of June, 2022, is between the City of Abilene, a Municipal Corporation of Taylor and Jones Counties, Texas ("City"), and Bontke Brothers Construction, Inc. of the City of Abilene, State of Texas. ("Contractor").

The City recognizes a need for high quality construction work; the Contractor agrees to complete the project in return for payment.

THE AGREEMENT

1. Work and Consideration. The Contractor hereby agrees to commence and complete the construction of Work required in the Contract Documents – incorporated herein by reference – The Cedar Creek Trail Development Project

All work to be performed will be completed in conformance with (1) Part I of the City of Abilene's Standard Specifications for Construction adopted September, 2006 with the attached amendments in these Contract Documents, and (2) the Technical Specifications and Plans attached to these Contract Documents. Technical Specifications and Plans attached to these Contract Documents control in the event of a conflict.

In consideration of this Work, the City will pay the Contractor the sum of \$2,366,350.00.

2. Timely Work. The Contractor must begin and fully complete Work in the days stated in the Notice to Proceed. The time allows for normal delays associated with weather conditions, crew coordination, etc. Time is of the essence, and liquidated damages as set forth in the General Conditions (Paragraph 16) apply for late Work.

3. Payment. If Performance and Payment Bonds are required, the City will pay Contractor according to the General Conditions (Paragraph 20). If Performance and Payment Bonds are not required, the City will pay Contractor according to the Instructions to Bidders.

4. No liens. No mechanic, contractor, subcontractor, supplier, or other person can or will contract for, or in any other manner have or acquire any lien upon the work of this Contract, or the land upon which it is situated. The laws of the State of Texas govern this Contract.

5. Venue. Venue for any legal proceeding is Taylor County, Texas.

6. Indemnity.

A. Definitions

For the purpose of this section the following definitions apply:

"City" shall mean all officers, agents and employees of the City of Abilene.

"Claims" shall mean all claims, liens, suits, demands, accusations, allegations, assertions, complaints, petitions, proceedings and causes of action of every kind and description brought for damages.

"Contractor" includes the corporation, company, partnership, or other entity, its owners, officers, and/or partners, and their agents, successors, and assigns.

"Contractor's employees" shall mean any employees, officers, agents, subcontractors, licensee and invitees of Contractor.

"Damages" shall mean each and every injury, wound, hurt, harm, fee, damage, cost, expense, outlay, expenditure or loss of any and every nature, including but not limited to:

- (i) injury or damage to any property or right
- (ii) injury, damage, or death to any person or entity
- (iii) attorney's fees, witness fees, expert witness fees and expenses, and
- (iv) all other costs and expenses of litigation

"Premise Defects" shall mean any defect, real or alleged, which now exists or which may hereafter arise upon the premises.

"Proven" shall mean that a court of competent jurisdiction has entered a final unappealable judgment on a claim adjudging an entity or person liable for a monetary judgment.

"Sole negligence" shall mean negligence of a party that is unmixed with the fault of any other person or entity.

B. Indemnity

The Contractor must indemnify, hold harmless, and defend the City from and against liability for any claims arising out of the Contractor's work and activities conducted in connection with this Contract.

The Contractor is an independent contractor and is not, with respect to its acts or omissions, an agent or employee of the City.

Contractor must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of Contractor's employees while in the vicinity where the work is being done. The City is not liable or responsible for the negligence or intentional acts or omissions of the Contractor or Contractor's employees.

The City assumes no responsibility or liability for damages which are directly or indirectly attributable to premise defects. Responsibility for all such defects is expressly assumed by the Contractor.

The City and Contractor must provide the other prompt and timely notice of any covered event which in any way affects or might affect the Contractor or City. The City has the right to compromise and defend the same to the extent of its own interests.

BOTH CITY AND CONTRACTOR EXPRESSLY INTEND THIS CONTRACT'S INDEMNITY PROVISION TO REQUIRE CONTRACTOR TO INDEMNIFY AND PROTECT THE CITY FROM THE CONSEQUENCES OF THE CITY'S OWN NEGLIGENCE WHILE CITY IS PARTICIPATING IN THIS CONTRACT, WHERE THAT NEGLIGENCE IS A CONCURRING CAUSE OF THE DAMAGES. THIS CONTRACT'S INDEMNITY PROVISION DOES NOT APPLY TO ANY CLAIM WHERE DAMAGE IS PROVEN TO RESULT FROM THE SOLE NEGLIGENCE OF THE CITY.

7. Insurance. The Special Conditions found in the City of Abilene's Standard Specifications for Construction adopted September, 2006, Part I, Division I, Item 3, contain the insurance requirements of this Contract.

8. Overcharges. The Contractor assigns to City any claims for overcharges related to this Contract which arise under antitrust laws of the United States, 15 U.S.C.A. Sec. 1 et seq, as amended.

9. Contract Interpretation. Any dispute about the Contract's meaning or application will be interpreted fairly and reasonably, and neither more strongly for or against either party.

10. Indebtedness to City. Contractor agrees that no payments owed by him of any nature whatsoever to the City, including payment in advance for service charges or any sums of any character whatsoever, shall become delinquent or in arrears.

The City will not knowingly award contracts for goods or services to any Bidder in arrears to the City for any debt, claim, demand, or account whatsoever, including taxes, penalty or interest. Contractor is responsible for ensuring that no indebtedness exists.

Section 130 of the City Charter authorizes the City to counterclaim and offset any debt, claim, demand or account owed by the City to any person, firm or corporation in arrears to the City for any debt, claim, demand or account of any nature whatsoever, including taxes, penalty or interest.

11. Boycott of Israel. In accordance with Chapter 2270, Texas Government Code, a governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.

This section only applies to a contract that: (a) is between a governmental entity and a company with 10 or more full-time employees, and (b) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity. Additionally, "company" does not include a sole proprietorship.

If this section is applicable, the signatory executing this contract on behalf of company verifies that the company does not boycott Israel and will not boycott Israel during the term of this contract.

12. Contract Execution. The Contractor must sign the Contract first, with any necessary attestation and seal. The City Attorney or designee must review the Contract, and approve or disapprove it. If approved, the City's authorized agent will then sign. The City Secretary must keep a signed original in the City Secretary's Office.

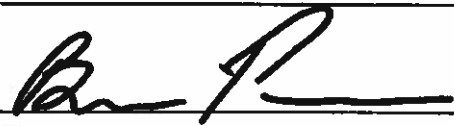
13. Contract Copies. Each of the two executed copies is an original.

IN WITNESS HERE OF, the parties hereto have executed this contract:

CONTRACTOR

Name of Contractor:

Bontke Brothers Construction Company, Inc.



Signature

Name – Typed or Printed

Brent Partain

Title – Typed or Printed

Project Manager

Business Address:

102 college drive

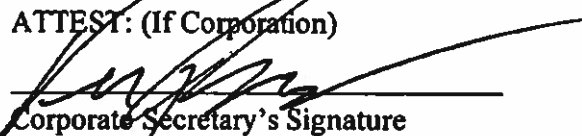
Abilene, TX 79601

Business Phone No.

325-677-6276

Federal Tax ID. # 75-1331325

ATTEST: (If Corporation)


Corporate Secretary's Signature

Corporate Seal

(If none, write "None")

CITY OF ABILENE

Authorized Signature

APPROVED:

City Attorney

ATTEST:

City Secretary

Seal

Resolution: Cedar Creek Development Trail Project



Timeline for the Easement and Right of Way Acquisition for Cedar Creek Trail:

- Following the 2015 Bond Election, we began the process of acquiring the necessary easements, right of way, and property purchases for the Cedar Creek Trail.
- During the summer of 2015 we began talking with the family that owns the private property at the start of the trail, just north of the trailhead on ES 11th Street. We were able to work out an agreement with them, and acquired an easement from them for the trail through their property along Cedar Creek in December, 2016.
- Also during the summer of 2015, we began the process to obtain a Pedestrian Underpass Agreement from Union Pacific Railroad (UPRR), for the trail to cross UP's right of way under the railroad trestle over Cedar Creek. This required the design of a Pedestrian Canopy Structure to be built under the railroad trestle, as one of the requirements for the Pedestrian Underpass Agreement. After several UPRR required redesigns of the canopy structure, UPRR approved the design plans in September, 2017, at which point we began working on obtaining the Pedestrian Underpass Agreement across UP's right of way. In order to obtain the agreement, UPRR required that the City purchase 16.14 acres of supplemental right of way property that was no longer needed by UPRR. The purchase of the 16.14 acres was completed in December, 2019. Ultimately, after a long and tedious process, the City was granted the Pedestrian Underpass Agreement by UPRR in October, 2020.
- Additionally, in April, 2017 we completed the purchase of a small strip of privately owned property that the trail will cross, and in May, 2020, we completed the purchase of 11.18 acres from AEP Texas, out of the old WTU power plant property.
- Currently, with the design of the trail complete, we are finalizing the agreement with TxDOT for the trail to cross under the E. Hwy 80 bridge over Cedar Creek.



Best Value Evaluation Cedar Creek Trail:

A committee of members from the Parks and Recreation Department and the Public Works Department graded the bids. The packages were graded for best value in the following categories:

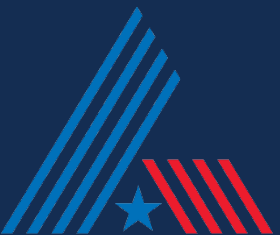
1. the price;
2. the offeror's experience and reputation;
3. the quality of the offeror's goods or services;
4. the impact on the ability of the City of Abilene to comply with rules relating to historically underutilized businesses;
5. the offeror's safety record;
6. the offeror's proposed personnel;
7. offeror's past working relationship with the City

The selection committee determined that Bontke Brothers Construction, Inc. provided the best value for the City of Abilene

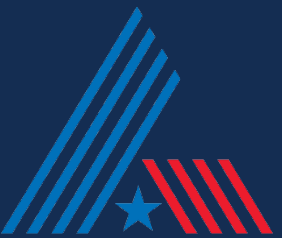


Request to Award Best Value Bid to Bontke Brothers Construction, Inc.

- Development of Cedar Creek Trail Project from ES 11th to EN 10th
- Funds to be used:
 - \$829,270.92 remaining 2015 bond allocations
 - \$1,537,079.08 Minor Improvement Fund
- Total:
 - \$2,366,350



Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 6/23/2022

TO: Robert Hanna, City Manager

FROM: Lesli Andrews, Director

SUBJECT: 13. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Authorizing the City Manager to enter into a Memorandum of Agreement between the City of Abilene and the Abilene Youth Sports Authority for the Lease of Real Property and Development of a Youth Sports Agreement (Lesli Andrews)

GENERAL INFORMATION

Abilene Youth Sports Authority (AYSA) has successfully constructed one youth sports facility to the benefit of the community at Grover Nelson Park and now desires to finance and construct an additional youth sports facility. The City of Abilene is in need of flat fields and the Grover Nelson Master Plan recommends flat fields in the park. The flat fields and supporting infrastructure could be used for many sports, such as football, soccer, lacrosse, 7 on 7, etc. They could also be used both for local sports, as well as for tournaments bringing in tourism from all over.

SPECIAL CONSIDERATIONS

1. The City shall lease the Premises to AYSA upon terms agreed upon between the City and AYSA. Such terms shall include a 40 year ground lease of the Premises to AYSA for the nominal rent of \$1 per year and shall be subject to renewable terms thereafter.
2. AYSA shall construct and operate for the benefit of local and regional youth sports, the additional Facility on the leased Premises. Such Facility shall be operated by AYSA in accordance with this Memorandum of Agreement (“MOA”), the Lease Agreement (“lease”) and the operating principals and mission statement of AYSA. At any point during the term of the lease, should AYSA or successor entity cease to operate the Facility according to this MOA or the terms of the lease, then at that time, ownership and control of the Facility to be constructed

hereunder shall revert to the City. In the event the City determines to operate the Facility after reversion, as allowed by law, the City agrees to honor any then existing Facility sponsorship or naming agreements that may exist.

FUNDING/FISCAL IMPACT

The City of Abilene, subject to current or future City Council approval of the appropriate funding source or appropriate funding mechanism, will contribute an amount not to exceed Five Million Dollars and No Cents (\$5,000,000.00) (“City’s Contribution”) to the construction of the approved Facility, such contribution being in the form of cash, or in-kind services, or any combination thereof as determined by the City in its sole discretion. The City shall have no obligation to make the City’s Contribution to the Facility if AYSA fails to successfully secure the remaining Ten Million Dollars and No Cents (\$10,000,000.00) for the construction of the Facility within twelve (12) months of the date of this Agreement. In the event that the AYSA fails to secure the remaining funding within twelve (12) months of the date of this Agreement, this Agreement shall terminate automatically.

STAFF RECOMMENDATION

Staff recommends entering into the MOA with AYSA for a Youth Sports Facility.

BOARD OR COMMISSION RECOMMENDATION

The Parks and Recreation Board will consider the item at the regularly scheduled meeting on June 21, 2022.

ATTACHMENTS:

1. Resolution AYSA Sports Facility 6232022
2. MOA AYSA Sports Facility edited
3. Presentation MOA AYSA Sports Facility

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
AUTHORIZING THE CITY MANAGER TO ENTER INTO A MEMORANDUM OF
AGREEMENT BETWEEN THE CITY OF ABILENE AND THE ABILENE YOUTH SPORTS
AUTHORITY FOR THE LEASE OF REAL PROPERTY AND CONSTRUCTION OF A YOUTH
SPORTS FACILITY**

WHEREAS, the City of Abilene would like to develop flat fields in Grover Nelson Park;
and

WHEREAS, the City of Abilene seeks to enter into a Memorandum of Agreement with
Abilene Youth Sports Authority (AYSA); and

WHEREAS, AYSA agrees to pay the City of Abilene \$1 per year for a 40 year lease; and

WHEREAS, AYSA agrees to raise a minimum of Ten Million Dollars for the construction
of the sports facility within twelve (12) months; and

WHEREAS, The City of Abilene agrees to appropriate funds not to exceed Five Million
Dollars to the construction of the approved sports facility:

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
ABILENE, TEXAS:**

Part 1: The City Manager is hereby authorized to enter into a Memorandum of Agreement with
the Abilene Youth Sports Authority for the lease of real property and construction of a youth sports
facility.

Part 2: That this Resolution shall take effect immediately from and after passage.

ADOPTED this 23rd day of June 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF ABILENE AND THE ABILENE YOUTH SPORTS AUTHORITY FOR THE LEASE OF REAL PROPERTY AND CONSTRUCTION OF A YOUTH SPORTS FACILITY

WHEREAS, the City of Abilene, Texas ("City") is a municipal corporation which owns real property, collectively known as Nelson Park, and desires to lease assigned acreage of said real property ("Premises"), as described in Attachment A ("site plan") to Abilene Youth Sports Authority ("AYSA"), a not for profit corporation, for the purposes stated herein; and

WHEREAS, AYSA has successfully constructed one youth sports facility to the benefit of the community at Grover Nelson Park; and

WHEREAS, AYSA now desires to finance and construct an additional youth sports facility ("Facility") on the Premises; and

WHEREAS, the grounds of Grover Nelson Park are under the jurisdiction and control of the Parks and Recreation Board; and

WHEREAS, on June 21, 2022, the Parks and Recreation Board approved the lease of the Premises to AYSA, and approved the construction and operations of an additional Facility on the grounds of Grover Nelson Park; and

WHEREAS, the City Council has determined that public purpose exists in leasing the premises to AYSA for the purpose of financing, constructing, and operating an additional Facility; and

WHEREAS, AYSA will be responsible for the upkeep and maintenance of the additional Facility and leased Premises.

NOW THEREFORE, it is hereby agreed between the City of Abilene and the Abilene Youth Sports Authority that:

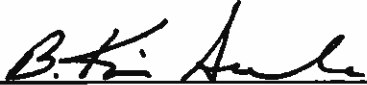
1. The City shall lease the Premises to AYSA upon terms agreed upon between the City and AYSA. Such terms shall include a 40 year ground lease of the Premises to AYSA for the nominal rent of \$1 per year, and shall be subject to renewable terms thereafter.
2. AYSA shall construct and operate for the benefit of local and regional youth sports, the additional Facility on the leased Premises. Such Facility shall be operated by AYSA in accordance with this Memorandum of Agreement ("MOA"), the Lease Agreement ("lease") and the operating principals and mission statement of AYSA. At any point during the term of the lease, should AYSA or successor entity cease to operate the Facility according to this MOA or the terms of the lease, then at that time, ownership and control of the Facility to be constructed hereunder shall revert to the City. In the event the City determines to operate the Facility after reversion, as allowed by law, the City agrees to honor any then existing Facility sponsorship or naming agreements that may exist.

3. The design and construction plans for the Facility will be reviewed and approved by the City, such approval being at the reasonable discretion of the City in consultation with AYSA.
4. The City of Abilene, subject to current or future City Council approval of the appropriate funding source or appropriate funding mechanism, will contribute an amount not to exceed Five Million Dollars and No Cents (\$5,000,000.00) ("City's Contribution") to the construction of the approved Facility, such contribution being in the form of cash, or in-kind services, or any combination thereof as determined by the City in its sole discretion. The City shall have no obligation to make the City's Contribution to the Facility if AYSA fails to successfully secure the remaining Ten Million Dollars and No Cents (\$10,000,000.00) for the construction of the Facility within twelve (12) months of the date of this Agreement. In the event that the AYSA fails to secure the remaining funding within twelve (12) months of the date of this Agreement, this Agreement shall terminate automatically.
5. The AYSA will indemnify and hold harmless the City of Abilene, its officers, agents, and employees, from and against liability for any and all claims, liens, suits, demands, and/or actions for damages, injuries to person (including death), property damage (including loss of use), and expenses, including court costs and attorney's fees and other reasonable costs arising out of or resulting from AYSA activities conducted in connection with or incidental to this Agreement and from any liability arising out of or resulting from the intentional acts or negligence, including all causes of action based upon common, constitutional, or statutory law, or based in part thereon, of AYSA, including but not limited to, its officers, agents, employees, contractors, licensees, invitees, or other persons.
6. AYSA will at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of its officers, agents, contractors, invitees, and other person as well as their property, while in the vicinity of its activities at the Facility and Premises. It is expressly understood and agreed that the City shall not be liable or responsible for the negligence of AYSA, including but not limited to its officers, agents, members, participants, invitees, and other persons.
7. AYSA will provide a builder's warrant to the City with a term of not less than one year.
8. This MOA is unique to the purposes and goals of the AYSA and may not be assigned without the express written consent of the City.
9. Future Nelson Park designs or redesigns that would materially affect the leased Premises shall be done in consultation with AYSA and shall not detrimentally affect the ingress, egress, parking and other site improvements relating to the Facility.

CITY OF ABILENE, TEXAS

ABILENE YOUTH SPORTS AUTHORITY

City Manager



Chair Person

Exhibit A



Resolution: Memorandum of Agreement Abilene Youth Sports Authority Sports Facility Development



Request to Enter Into a Memorandum of Agreement With Abilene Youth Sports Authority (AYSA)

- 40 Year Lease of Property at Grover Nelson Park for \$1 Per Year
- Design and Development of Sports Facility (flat fields and supporting infrastructure) at Grover Nelson Park
- \$5 Million from City from cash, or in-kind services, or any combination determined by the City in its sole discretion.
- \$10 Million from AYSA for the construction of the Facility within twelve (12) months
- Parks and Recreation Board discussed June 21, 2022

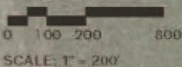


Questions?

Exhibit A



Taylor County Expo Center & Fair Grounds





**City Council
Agenda Memo**

City Council Meeting Date: 6/23/2022

TO: Honorable Mayor and City Council Members

FROM: Stanley Smith, City Attorney

SUBJECT: 14. The City Council of the City of Abilene reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed below, as authorized by the noted Texas Government Code Sections:

GENERAL INFORMATION

The City Council of the City of Abilene reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed below, as authorized by the noted Texas Government Code Sections:

A. 551.071 (Consultation with Attorney)

1. Robert Steven Reitz v. City of Abilene, Texas, et al., Case No. 1:16-cv-00181-BL; In the U.S. District Court, Northern District of Texas, Abilene Division, filed October 10, 2016
2. City of Abilene v. 3118 South 22nd Street, Abilene, Texas, et al.; Cause No. 11968-D, In the 350th Judicial District Court, Taylor County, Texas; filed October 11, 2019
3. Chandler Brooks v. Taylor County, et al.; Civil Action No. 1:20-cv-00049, In the United States District Court, Northern District of Texas, Abilene Division; filed March 5, 2020
4. John Doe v. Robert Hanna, Individually and as City Manager; Cause No. 28078-B; In the 104th Judicial District Court, Taylor County, Texas; filed July 7, 2020
5. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-20-004598, In the 53rd Judicial District Court, Travis County, Texas; filed September 1, 2020
6. Sharra Sampson v. City of Abilene; Cause No. 8144-B, In the 104th Judicial District Court, Taylor County, Texas; filed September 14, 2020
7. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-20-007028, In the 459th Judicial District Court, Travis County, Texas; filed November 18, 2020
8. Natasha Jones v. City of Abilene, Texas; EEOC Charge of Discrimination, 450-2020-06446; filed September 15, 2020
9. Alton H. Smith, Jr. and Alicia Malorie Smith v. City of Abilene, Texas; Cause No. 51055-A, In the 42nd Judicial District Court, Taylor County, Texas; filed March 11, 2021
10. Steve Van Horne, et al. v. City of Abilene, et al.; Cause No. 12530-D, In the 350th Judicial District Court, Taylor County, Texas; filed September 7, 2021
11. Cockrell Investment Partners, L.P. v. Middle Pecos Groundwater Conservation District, et al.; Cause No.

P827783CV, in the 83rd Judicial District Court, Pecos County, Texas; filed September 11, 2020

12. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-21-006299, In the 250th Judicial District Court, Travis County, Texas; filed October 20, 2021

13. Samuel Hightower v. City of Abilene, Appeal of Temporary Suspension to Hearing Examiner, filed December 28, 2021

14. Zach Williams v. City of Abilene, Appeal of Temporary Suspension to Hearing Examiner, filed December 28, 2021

15. Allstate Fire and Casualty Insurance Company as Subrogee of Del Davis v. City of Abilene; Case No. SC22-11166J11, In the Justice Court, Precinct 1, Place 1, Taylor County, Texas, filed March 30, 2022

16. Library Collection Development Policy

B. 551.072 (Deliberations about Real Property)

C. 551.073 (Deliberations about Gifts and Donations)

D. 551.074 (Personnel Matters)

1. City Council may consider appointment, employment, compensation, reassignment, duties, discipline, or dismissal of public officers or employees, City Manager, City Attorney, Municipal Court Judge, City Secretary, and City Board and Commission Members
2. City of Abilene Boards and Commissions may be discussed, as needed for (re)appointment

E. 551.076 (Deliberations about Security Devices)

F.551.087 (Business Prospect/Economic Development)

1. 101 Cypress
2. Trail Ridge Subdivision

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

None



**City Council
Agenda Memo**

City Council Meeting Date: 6/23/2022

TO: Honorable Mayor and City Council Members

FROM: Robert Hanna, City Manager

SUBJECT: 15. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approving a Chapter 380 Agreement with Abilene Improvement Corporation for 101 Cypress Street (*Robert Hanna*)

GENERAL INFORMATION

Details to be provided during the meeting.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. 101 Cypress

Resolution: Chapter 380 Agreement with Abilene Improvement Corporation for 101 Cypress Street



QUESTIONS?

